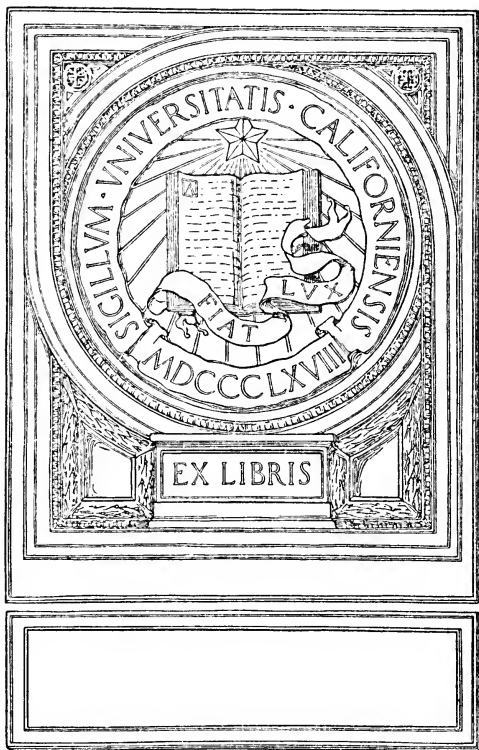


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SPEECH

OF THE

HON. HORACE BINNEY,

ON THE QUESTION OF

THE REMOVAL OF THE DEPOSITES:

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

JANUARY, 1834.



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SPEECH.

The House having resumed the consideration of the motion to refer to the Committee of Ways and Means the reasons assigned by the Secretary of the Treasury for the removal of the public deposits, with Mr. McDUFFIE's motion for instructing the committee to report a bill for restoring them to the Bank of the United States—

Mr. BINNEY addressed the Chair to the following effect:

Mr. SPEAKER: The amendment offered by the gentleman from South Carolina, [Mr. McDUFFIE,] proposes to instruct the Committee of Ways and Means "to report a joint resolution, providing that the public revenue, hereafter collected, be deposited in the Bank of the United States, in conformity with the public faith, pledged in the charter of the said Bank." It, therefore, presents directly the question of the sufficiency of the Secretary's reasons for removing the public deposits from the Bank, and for making the future deposits elsewhere; and brings up for the consideration of this House every thing that can bear upon the great topics of national faith and public safety that are involved in the issue.

I mean to discuss this great question, sir, as I think it becomes me to discuss it, on my first entrance into this House; as it would become any one to discuss it, having the few relations to extreme party that I have, and being desirous, for the short time that he means to be connected with the station, to do or omit nothing that shall be the occasion of painful retrospect. I mean to discuss it as gravely and temperately as I can: not, sir, because it is not a fit subject for the most animated and impassioned appeals to every fear and hope that a patriot can entertain for his country—for I hold, without doubt, that it is so,—but because, as the defence of the measure to be examined comes to this House under the name and in the guise of "Reason," I deem it fit to receive it, and to try its pretensions by the standard to which it appeals. I mean to examine the Secretary's paper, as the friends of the measure say it ought to be examined—to take the facts as he states them, unless in the same paper, or in other papers proceeding from the same authority, there are contradictions; and then I must be allowed the exercise of private judgment upon the evidence—to take the motives as the Secretary alleges them—to add no facts, except such as are notorious or incontestable, and then to ask the impartial judgment of the House upon my answer.

Sir, the effort seems to be almost unnecessary. The great practical answer is already given by the condition of the country. No reasoning in this House can refute it; none is necessary to sustain it. It

comes to us, it is hourly coming to us, in the language of truth, and soberness, and bitterness, from almost every quarter of the country; and, if any man is so blind to the realities around him as to consider all this but as a theatrical exhibition got up by the Bank, or the friends of the Bank, to terrify and deceive this nation, he will continue blind to them until the catastrophe of the great drama shall make his faculties as useless for the correction of the evil, as they now seem to be for its apprehension.

Mr. Speaker, the change produced in this country, in the short space of three months, is without example in the history of this or any other nation. The past summer found the people delighted or contented with the apparent adjustment of some of the most fearful controversies that ever divided them. The Chief Magistrate of the Union had entered upon his office for another term, and was receiving more than the honors of a Roman triumph from the happy people of the Middle and Northern States, without distinction of party, age, or sex. Nature promised to the husbandman an exuberant crop. Trade was replenishing the coffers of the nation, and rewarding the merchant's enterprise. The spindle, and the shuttle, and every instrument of mechanic industry, were pursuing their busy labors with profit. Internal improvements were bringing down the remotest West to the shores of the Atlantic, and binding and compacting the dispersed inhabitants of this immense territory, as the inhabitants of a single State. One universal smile beamed from the happy face of this favored country. But, sir, we have had a fearful admonition, that we hold all such treasures in earthen vessels; and a still more fearful one, that misjudging man, either in error or in anger, may, in a moment, dash them to the earth, and break into a thousand fragments the finest creations of industry and intelligence.

Sir, there is one great interest in this nation, that is, and I fear will for some time continue to be, peculiarly subject to derangement; and yet every other interest is intimately and inseparably involved in it: I mean the currency. We have some twenty scores of banks from which this currency is derived. We have from eighty to a hundred millions of bank notes, with a metallic circulation along with it, not greater, perhaps, than as one to seven. We have, it may be, one hundred and forty to fifty millions of bank notes, and bank deposits, performing in part the same office, with about the same proportion of specie in the banks to sustain it. It is a system depending essentially for its safety upon public confidence, and that confidence depending of course upon the regularity of the whole machine, which again depends upon the control that governs the whole. When compared with the currencies of England and France—in the former of which the metallic circulation is estimated as nearly one-half, and in the latter as nine-tenths of the whole—it may be seen how much more confidence is required here, and how much greater the liability to shock and to derangement. Yet, by the regulation and control of the National Bank, ever since that regulation and control have obtained, the system has worked well, and it has worked well only by means of them. Sir, this regulation and control have been thrown away—

thrown away wantonly and contemptuously. In an instant, sir, almost in the midst of the smiling scene I have described, without any preparation of the country at large, with nothing by way of notice but a menace, which no one but the Bank itself, and she only from the instinct of self-preservation, seems to have respected, this most delicate of all the instruments of political economy has been assaulted, deranged, and dislocated; and the whole scene of enchantment has vanished, as by the command of a wizard. The State banks are paralyzed—they can do, or they will do, nothing. The Bank of the United States stands upon her own defence. She can do, or she will do nothing, until she knows the full extent of the storm that is to follow, and measures her own ability to meet it. Prices are falling, domestic exchange is falling, bank notes are falling, stocks are falling, and, in some instances, have fallen dead. The gravitation of the system is disturbed, and its loss threatened; and it being the work of man, and directed only by his limited wisdom, there is no La Place or Bowditch that can foretell the extent or the mischiefs of the derangement, or in what new contrivance a compensation may be found for the disturbing force.

Sir, whence has come this derangement? It comes from the act of the Secretary *in removing the deposits, and in declaring his doctrine of an unregulated, uncontrolled, State bank paper currency.* It is against all true philosophy to assign mere causes than are sufficient to produce the ascertained effect. This cause is sufficient—this I verily believe has produced it—and I hope for the patient attention of the House to my humble efforts hereafter to shew that nothing else has produced it.

Sir, the Secretary of the Treasury has, in my poor judgment, committed one error which is wholly inexcusable; it is, in part, the error of the argument that has proceeded from the honorable member from Tennessee. That error lies in supposing that there were but two objects to be considered in coming to his decision upon the deposits—the *Administration* and the *Bank*. The country has been forgotten. The Administration was to vindicate its opinions. The Bank was to be made to give way to them. The consequences were to be left to those whom they might concern; and they are such as moderate human wisdom might have foreseen, such as are now before us. While the Administration is apparently strong, and the Bank undisturbed, the country lies stunned and stupefied by the blow; and it is now for this House to say whether they will continue the error, by forgetting the country here also, or will endeavor to raise her to her feet, and assist her in recovering from the shaft that was aimed at the Bank, but has glanced aside and fallen on her own bosom.

Mr. Speaker, I cannot better show the extent of the derangement which this act is certain to produce, unless it is corrected, than by a statement of the uses which the Bank of the United States has annually afforded, in various ways, to the people of the United States. I take the year 1832, for which the returns are complete as to the item of exchanges, and the years 1832 and 1833 for some other items of nearly equal moment.

The amount of domestic bills of exchange, *purchased* in all parts of the Union, in 1832, was - - - - - \$67,516,673

[The half year from December, 1832, to June, 1833, was \$41,312,982, showing a large increase in that line during the first half of this year.]

The amount of domestic bills *collected* for others, was 42,096,062

The amount of drafts by Bank United States and its offices, on each other, - - - - - 32,796,087

Drafts by Bank United States and its offices, on State banks, - - - - - 12,361,337

Notes of Bank United States and its branches, received and paid out of place, viz: at places where there was no obligation to pay them, - - - - - 39,449,527

Notes of State banks received by Bank United States and its branches, where they were not payable, - 21,630,557

Transfers of funds for the United States, - - - - - 16,100,000

Transfers of office balances, - - - - - 9,767,667

Making a total of domestic exchanges, - - - - - 241,717,910

Add to which the amount of—

Foreign exchange purchased, - - - \$9,253,533

Do. sold, - - - 4,203,204

13,456,737

Making the total amount of exchanges, by means of the Bank of the United States, within the year 1832, 255,174,647

The amount of premiums on domestic exchange, received by the Bank for the same period, was \$217,249 56, which is about one-eleventh of one per cent. on the aggregate amount of the domestic operations of the Bank, say \$241,717,910; and this has been the whole cost of this circulation to the people of the United States, by the aid of which their property of every description has been passing in a copious and uniform current, from one extremity of this nation to the other. To this extensive aid must be added that derived from the Bank discounts, which, with the domestic bills purchased, amounted, in the year 1832, to an average sum of \$66,871,349, and, in the year 1833, to an average of \$61,746,708; and that also derived from the constant circulation of her notes, averaging \$20,309,359 for the year 1832, and \$18,495,436 for the succeeding year.

Now, sir, it appears to me that I do no injustice to the Secretary of the Treasury, or to any one who has directed, or authorized, or superintended this act, by saying that it was the *design* of the removal of the deposits to break up this whole machinery; that this was not to be a casual, unexpected, unpremeditated result; but that the removal was ordered for the very purpose of drawing the circulation of the Bank of the United States out of the hands of the people into the hands of the Bank; to compel her, with this view, to reduce her discounts, and diminish the amount of her purchases of domestic exchange; and thus to cut all the ties which united the Bank to the

internal trade of the country. I do no injustice by saying this, because, in the letter of the Secretary, if I read it right, this design is there explicitly avowed and defended. But whether designed or not, this will be the effect, and the necessary effect, of the measure, if it shall prove successful. It must throw the whole machinery of the Bank out of gear; compel her at once to begin the process which is to liquidate and close her transactions; separate her from the people, and the people from the Bank; and deliver over these vast concerns and interests to confusion and misrule. It is by the revelation of this design, and by the necessary consequences of the measure, as this intelligent people have apprehended them, that great distress has already been produced, and the just anticipation of greater distress hereafter. Can any one, after this view of the recent uses of the Bank, and of the effects which have followed, and are to follow, their intended or necessary interruption, ask the reason of the want of employment, the want of money, the stagnation of trade, which prevails in most of our cities? Can he ask the cause of the syncope into which this people have fallen? No, sir, no one can for a moment doubt the cause of all this. It lies in the act of removing the deposits, taken in connexion with its design and doctrine. It is not the mere transfer from one place to another. That is a circumstance which might happen, and has happened already, in the history of this Bank, without producing any alarm whatever. It is not the removal of the deposits simply, but the design with which that removal was made, and the effects which belong to it. The alarm proceeds from looking at the necessary consequences of such a design, unless Congress shall interpose to avert them.

Permit me, sir, before I come to the regular discussion of the reasons adduced by the Secretary of the Treasury for removing the deposits, to occupy a few moments in drawing the attention of the House to some matters, which, to many gentlemen here, are no doubt familiar, but which ought to be known and considered by all who would form a sound judgment on the question before us. I have said that the removal of the public deposits, if it had been a mere transfer of so much money from one bank to other banks, judiciously regulated as such transfers may be, would not have produced the train of consequences which we have already seen to flow from it. There are gentlemen in this House familiar with as large operations in finance, that have produced no inconvenience. The effects of such a measure must depend upon the condition of trade at the moment of removal, upon the continued or interrupted application of the money transferred, to the same uses to which it has been before applied, and upon the prosecution or discontinuance of the *general system* of banking operations which prevailed at the moment of transfer. What its effects must have been, and must continue to be, in the actual circumstances of the country, taken in connexion with the imputed design, it is not difficult to show.

Sir, the Bank of the United States held of the public deposits, of every description, on the 1st of August, 1833, according to the statement of the Secretary of the Treasury, the sum of \$7,599,931; and they were in a course of increase, which the Bank knew as well

as the Secretary, up to the 1st of October, 1833, when they amounted to the sum of \$9,868,435; say ten millions of dollars. How was this money to be paid? The Secretary of the Treasury had a right to demand its payment, when, where, and in such sum or sums, as he thought fit. He had such a power to do it in point of form, that the Bank could not question its exercise in point of right. It was the duty of the Bank to be prepared to pay it; and the question must be answered, how was the money to be paid?

The answer given to this question, and given with a view to involve the Bank in odium and prejudice, is this: that she ought to have paid it, or whatever the Secretary chose to require of it, in specie, from her vaults, without distressing the community, by calling upon others to pay their debts to her. To say nothing of the fact, sir, that the Bank has always paid every one, the Treasury included, in specie, unless they preferred something else, the doctrine that she was to pay in specie to the Treasury, without putting herself in a condition to require it from some one else, is a doctrine which I cannot admit. It is one that will not bear examination.

The Bank, on 1st October, 1833, had specie in all her vaults to the extent of \$10,663,441. If she had been so situated at that time as that this, or any considerable portion of it, had left her vaults, without being brought back again, the consequences might have been of the most pernicious character to herself and to the whole country. The Bank had a circulation of more than eighteen millions to sustain, exclusive of her private deposits. A new era had opened. A new system was about to be adopted in the fiscal affairs of the Union. Its effects were to be seen. The extent to which the Treasury was about to assail her could not be known. The slightest interruption, the slightest fear of interruption, to her promptness and punctuality, would have raised that apprehension for her stability which has been excited for others. Sir, to ask this Bank, under these circumstances, to empty her vaults of specie, without taking any measures of precaution to replenish them, would have been to ask the able directors to throw away their whole capital of reputation, and that of the Bank also. They would have proved themselves unworthy of the occasion on which they were called to act. What, sir, at the very outbreaking of the storm, when no human intelligence could tell how long it was to last, or what would be the fury of its violence, to ask the pilots of this bark to keep all her sails set, and to throw her ballast overboard! No, sir; the Bank was bound to do as she has done. She was bound to prepare for the trial. She was bound to strengthen her position, by diminishing her discounts; and she has diminished them, in my judgment, most wisely, most discreetly, and most tenderly. And yet, sir, it is from this circumstance—the mere reduction of loans and purchases of bills, without locking either to the necessity for that reduction, or to the extent and effect of it—that some men of honest and upright minds have been prejudiced against her. I can show, without difficulty, that it is a mere prejudice.

The Bank had to pay over ten millions of public deposits, and she ought not to have exposed herself to lose any material portion of her specie, without being in a condition to recall it. She had then but

one resource, and that was, unless the interest of her debtors did of itself produce the effect by diminishing their loans, to call upon them to assist her in paying the amount. There was no other way open to her; and the degree to which she must call, in order to obtain assistance to a given extent, is a point in practical banking to which it is material for gentlemen to advert.

In explaining this operation, so as to make it intelligible to that portion of the House which may not be familiar with banking, I will state the argument against the Bank. It is said, sir, that whatever amount she requires her debtors to pay, or withholds from other borrowers after it is paid, is to be set down as an actual increase of her ability to meet the demand for the public deposits. This is a very specious but wholly unsound proposition. In the process of reduction of discounts, with a view to increase the ability of a bank, two and two do not always make four; they sometimes do not even make two. The Bank not only has debtors, but she is herself a debtor to the Treasury for the public deposits, and to individuals for their private deposits; she is a debtor for her notes in circulation, and to other banks for any balances due to them. When, therefore, she calls upon her debtors to return a part of the debt they owe her, these very persons may be her creditors by deposit, or may borrow from such as are, and may call upon the Bank to pay what she owes to them. Thus, if a person who is required by the Bank to pay a note, has at the same time a deposit or credit in bank, the one may be made an offset against the other; and if the two are equal, it is manifest that the Bank has no more ability to pay its debt to others after this transaction than she had before. She has merely paid a debt that she owed an individual, by the extinguishment of a demand which the Bank had upon him. Sir, this effect is universally seen in the practical business of banking, that when a Bank calls in what is owing to her, a part of the demand is paid by drafts upon herself; and as her line of discounts goes down, so does her line of individual deposits.

It will be easy to show, sir, the effect of this circumstance upon the resources of the Bank while the reductions of August and September last were being made.

In August and September the Bank loans and purchases fell, according to the Secretary's letter, 4,066,147 dollars, as follows:

The amount of notes and bills in August was	\$64,160,349	
And in October following	60,094,202	
		<hr/> \$4,066,147
But the private deposits in August were	10,152,143	
And in October they had fallen to	8,008,862	
Making a reduction by payment of these deposits equal to	2,143,281	

And leaving the Bank the better in ability to pay the public only	1,922,866
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the difference having been paid away to her own depositors or creditors. This result is familiar in the history of all banks. As a bank calls upon her debtors to pay, they call upon her in like manner; and she retains only the difference between her receipts and payments.

Sir, while the process of reduction was going on in August and September, 1833, the public deposits to be withdrawn in October were increasing against the Bank, having been in October the amount before stated - - - - - \$9,868,435
While in August they stood at - - - - - 7,599,931

Making an increase of - - - - - 2,268,504
so that, regarding these elements alone, the increased ability of the Bank to meet the public deposits was not equal to the increased demand by reason of the deposits; and the process of reduction was of necessity to be continued. So very insufficient a method is it of ascertaining the effect of reductions either upon a bank or the community, to take the amount of reductions only.

But, sir, let me carry this examination a little further. The amount of reductions from 1st August, 1833, to 1st January, 1834, was as follows:
Notes and bills in August, 1833, were \$64,160,149
in January, 1834, they were 54,911,461

Making a diminution or reduction in five months of \$9,248,688
The individual deposits in August, being
as before - - - - - \$10,152,143
They are in January, 1834 - - - - - 6,734,866

So that the Bank has paid those deposits to the extent of 3,417,277

And her ability so far as the reductions gave it, was
increased by the difference only - - - - - 5,831,411
But the public deposits in Oct. were as before \$9,868,435
And in January they stand at - - - - - 4,230,508

Showing a payment of the public deposits during this
time of - - - - - 5,637,927

And leaving an increased ability to pay the residue, as
compared with the 1st Aug., 1833, only to the extent
of the difference of - - - - - \$193,484

These statements, sir, show that, although reductions are necessary to meet the withdrawal of deposits, they do not produce an increase of ability to pay deposits in the direct ratio of their amount; and therefore that the amount alone is not a test of their having been carried to a sufficient extent. There is no doubt that the payments of debts to the Bank may have produced distress; but these payments have themselves been the effect of the removal of the deposits, and this effect has been infinitely aggravated by the stagnation of trade and the loss of confidence proceeding from the design of the removal, and from the manner of the removal.

Sir, the Treasury might have pursued a course that would have mitigated the evil, by diminishing the cause of alarm. Having the control of this demand, they might have made known to the Bank the times, proportions, and places of the intended transfers, and have thus given assurance to the Bank that its reductions to meet the

emergency need not exceed the proposed demand. But the Treasury took a different course; and, if any thing could raise the embarrassment of the Bank, and the community also, to the highest degree, it was the course which the Treasury pursued.

Mr. Speaker, what was that course? Is any gentleman in this House ignorant of it? The honorable member from Tennessee [Mr. POLK] has read to the House a passage from a pamphlet, which he was pleased to call the manifesto of the Bank; I shall, therefore, regard that publication as authentic, and I will refer gentlemen to the correspondence between the cashier of the Bank and the Treasurer of the United States that is appended to it. They will there find what, by agreement with the Bank, had been the practice of the Treasury when there was no alarm in the community, when the Bank was admitted to be in a state of perfect security, and free from the apprehension of embarrassment. The Treasury practice was to send to the Bank a daily list, specifying every draft upon the Bank from the Treasury, showing the amount drawn for and the place of payment, but omitting the names of the persons to whom payable, to guard against fraud. Another list was sent weekly, with the dates, amounts, places of payment, and names of the payees. These were intended not only to guard the Bank against fraud and surprise, but to enable the Bank to regulate the accommodations to its customers, as they were thus apprized of the points at which their funds would be wanted. Nothing surely could be more natural than to continue a practice like this, when the deposits were to be permanently removed. It could not be doubted by any one that such a proceeding must cause uneasiness in the public mind; and the very first precaution which prudence would have suggested to mitigate the alarm, was the continuance and increase of these safeguards of the Bank; certainly not that, at the very commencement of the alarm, they should be discontinued. But such was the fact. That they were discontinued, and that the Bank, misled and deceived, had to deal with the Treasury as with an enemy, is an event which belongs exclusively to the present day, and to the existence of personal feelings in the Department which directed the Treasurer, wholly unbecoming the official transactions of any Government.

Sir, if I meant to deal with my enemy as is befitting the spirit of honorable contest, I would give him equality of position, of instruction, of knowledge, and let the issue be the result of skill and the better cause; but if I meant to deprive him of all chance of defence or escape, to murder him basely, what better course could I pursue, than to blindfold him, or rather to throw false lights into his eyes, that he could only know the approach of the poniard by feeling it in his heart?

Sir, the former practice was made an instrument of imposition upon the Bank, by continuing to wear its usual appearances, while, in truth, drafts, to the extent of nearly three millions of dollars, were purposely withheld from the lists—drafts payable in unknown places, at unknown times, and to unknown parties. The lists themselves became instruments of deception, and gave false information to the Bank of the state of the Treasury demand, while rumors gave out the exist-

ence of the concealed drafts in precisely that way which was most likely to increase the deception. I call the attention of the House to that correspondence of which I have spoken. The Treasurer says that the drafts were of an *unusual kind*; that they depended on *certain contingencies*—contingencies still unknown to this House and nation. Was this a reason why the Bank should not have notice of them? Was it calculated to quiet the apprehensions of the Bank or of the community, that the presentation of these drafts, payable as it now appears at sight, was suspended upon *unknown contingencies*? Sir, every unprejudiced person who looks at this transaction, must agree that the course of the Treasury, in regard to drafts for nearly three millions of dollars, hovering between Philadelphia, New York, and Baltimore, without an intimation to the Bank of the time and place where they were to be presented, was of itself amply sufficient to justify even more alarm than the Bank felt, and greater reductions than the Bank required.

There is one other fact to which I will advert before I close these preliminary remarks; it is of great use in explaining the influence of the removal in producing the present distress. The honorable member from Tennessee [Mr. POLK] expressed great surprise that any difficulty should be apprehended from transferring deposits from one side of a street to another, inasmuch as the community would derive the same amount of accommodation from them in one place as in the other. Sir, the consequence did not follow. The same amount of accommodation was not derived, and it is for those who know the condition of the deposit banks to give the reason. This House does not know what their circumstances were. Their capital may have been employed in furnishing capital to Western banks, or in discounting upon their own stock; or the amount of their private deposits may have been lessened by the apprehension of remaining in company with a public depositor and preferred creditor. There is one decisive reason why the deposit State banks can never so efficiently further the accommodation of the trading community as the Bank of the United States, and that is, that the circulation of the one extends over the whole Union, and never enters one of her banks in its course, but it issues again to repeat the circle. But the circulation of a State bank is at her own door. It cannot leave it to any material extent. Contrivances to extend it are abortive. It does not answer the purpose of exchange, and its excess as currency instantly returns upon the bank for something that is better than her bank notes. The discounts of the State banks, on the faith of the deposits placed in them, cannot have been equal to the reductions of the Bank of the United States to pay them. And, in addition to this, there is an immense mass of private capital usually loaned out on the security of stock, at moderate interest, which, at a moment of danger and alarm, retires from the scene. The days of exorbitant interest are not the days of the capitalist, but of men who desire to make exorbitant profit upon small investments.

Still, sir, it is not easy to account for the height of the present distress by the mere change of the deposits, nor by the diminished use of them in the State banks, when compared with their use in the Bank

of the United States, from which they were taken. These circumstances had an effect, but they do not stand alone. There is an intense apprehension for the future connected with this operation—an apprehension which springs from the Treasury determination that nearly the whole of the existing circulation of exchanges is to cease; and cease it must, to a great extent, if the Bank of the United States is not to collect the public revenue.

The Bank of the United States, Mr. Speaker, has performed her great offices to this people by the concurrence of two peculiarities, which belong to her—her structure, and her employment in the collection of the public revenue. No State banks, by any combination, can effect the required exchanges to a considerable extent. No Bank of the United States, without the aid of the public revenue, can effect them to the extent which the necessities of trade require.

Sir, the structure of the Bank of the United States contributes to this operation in a way which every one may comprehend. The whole circulation of the United States is employed in effecting the exchange of the crops with the merchandise of the country. It is employed in transporting the crops to market, and merchandise to the places of its consumption. Now, sir, a National Bank, with branches spread over the whole Union, knows, from experience, and by her means of observation, where the amount of demand will fall and rise, and at what time these changes will occur. She knows beforehand where she may with safety diminish her resources; and where she must enlarge them. Wherever her resources are placed for use, it is the same thing to the Bank. Her profit is the same every where; and this ability to give them the position which the trade of the country requires, is sustained by, and in a great degree dependent upon, her employment as the depository of the public revenue. In this character the Bank receives the revenue, and holds it until the time of disbursement; and the knowledge which her accomplished President and the Board of Directors obtain through their relations to the Treasury, and by intimate acquaintance with the fiscal operations of the Department, enables them to reconcile all the demands of the Treasury with the demands of trade, at the same time that they preserve the whole currency of the country in that due proportion to demand which makes it, and which alone makes it, sound and invariable.

But now, sir, this revenue is to be collected *against* the Bank. She is to assist in *paying*, not in *receiving* it. Her situation is to be entirely reversed. The wants of the community are to become secondary to her own preservation; and, instead of placing her funds where trade will most require them, she must place them where, from the presence of rivals supported by the Government, she will require them herself for her own protection. Sir, this is to be the future operation of the measure taken by the Treasury Department. The theory of a National Bank with branches not collecting and disbursing the revenue, is an absurdity. It never was conceived of until the present day; and even now, though complaints are made against the Bank, as if her powers were not impaired, no one can seriously regard the measure of removal except as a measure of intended destruction. It

is particularly a measure of intended destruction to all the usual operations of exchange. The Bank cannot perform them as she has done. If the State banks promise to perform them, it is all delusion. If they have contracted to perform them, they will break their contract; and if they do not, they will break themselves. If by possibility they could make themselves a Bank of the United States and its branches, which they cannot do, what would the country gain by such a contrivance but a bank with the powers of the present Bank, subject to no restrictions or control by law, and dependent only on the pleasure of him who controls the deposits? Sir, the whole property of the country, in its transfer from place to place within it, is to undergo—has already undergone—a violent change. There is not a man who can now take the management of a crop in the South, or of a manufacture or importation in the North, who is able to foresee how he shall conduct it to its close; and the consequence is, that he will, if possible, have nothing to do with either. This derangement, actual and prospective, sir, enters materially into the present excitement and distress.

And does the honorable member from Tennessee propose, as a remedy for all this, to have an inquiry into the affairs of the Bank? Is it for difficulties of this description and magnitude that he demands a *sifting* inquiry, an inquiry into the *printing* accounts of the Bank? Is his great object to ascertain how \$7,000 of unvouched payments have been distributed, and who is the owner of the National Intelligencer? Sir, I confess my profound astonishment that gentlemen, having the welfare of this great nation confided to them, will descend to inquiries like these, will run after petty accounts with printers and the concerns of the National Intelligencer, and, in the ardor of pursuit, forget the country that is intrusted to them. The time has come, or I greatly mistake the indications around us, when the country demands that our attention be given to objects of a higher nature.

I humbly hope, then, Mr. Speaker, that this House will inquire into nothing but the question before it, and from which we cannot escape—the evil which now threatens the country, and the proper remedy to be applied. An inquiry of this character is worthy of all attention, and of the devotion of all our faculties and efforts. In such an inquiry, no person will be more ready than myself to forget the Bank, if that shall be the course of patriotism and safety. Except as she ministers to the public good, I regard her as nothing, and less than nothing. The public good, in the preservation of the public faith, in the maintenance of the public currency, and in the support of the constitution—this is an object which this House should never cease to regard, and to which, in my further remarks, I shall endeavor to keep my own attention fixed, without yielding it to any other.

Mr. Speaker, the immediate question before the House is, whether the reasons assigned by the Secretary of the Treasury for removing the public deposits are such as ought to satisfy Congress and the country; and, if not, what is the remedy which it is the duty of Congress to apply?

The reasons assigned are remarkable, sir, in a particular which cannot have escaped the general observation. The letter of the Secretary consists of certain general propositions, by which he en-

deavors to sustain his authority, and of certain particular reasons or statements of fact, by which he endeavors to justify its exercise. The general propositions upon which all his particular reasons depend, he does not condescend to argue at all; and I have listened with all due attention to the gentleman who has preceded me, the honorable member from Tennessee, without being able to perceive that his course has in any respect differed from that of the Secretary. The Secretary asserts, sir, that, by the removal of the deposits, by and through his absolute and unconditional power, whether the act was in itself right or wrong, with or without cause, the Bank of the United States is put out of court, and the nation discharged from the contract, without any violation of faith. He further asserts, that while his own power was absolute, that of Congress over the same subject was gone, having been alienated to him; that the Legislature were, as to the treasure deposited in the Bank of the United States, in a condition of impotency and imbecility; that they had bound themselves hand and foot by the charter of the Bank; and that, while they had given unlimited authority over the subject to him, they had reserved no power whatever to themselves or to the people; and, consequently, that in no event, not even if the deposits were unsafe, or the ultimate law of all Governments—the safety of the people—should imperiously have demanded the removal of the deposits, was it in the power of Congress to touch them, without a violation of the public faith. He further asserts, that the rightful exercise of his power is not, even in point of responsibility to Congress, dependent on the safety of the deposits, or on the fidelity of the Bank in its conduct to the Government; but that it was his right and duty to remove them, if the removal tended in any degree to the interest and convenience of the public. He finally asserts, that as it was his right to remove the deposits, so it was his right, as a consequence, to select the places of new deposite; and he did so.

Sir, these are startling propositions. They involve grave consequences. They deserve careful consideration. They are far from being self-evident. It was worthy of the officer who asserted them, and who was bound to justify the assertion to Congress, to favor that body with at least an outline of the train of reasoning by which he came to these remarkable conclusions. But, sir, there is no such thing in the book. I have looked carefully through it, to borrow some light on this subject from the mind of the Secretary, by which I might enlighten my own; but, beyond the simple dogmas which I have stated, there is nothing to be found, except the causes of his particular determination, which were of no sort of importance whatever, nor worthy of the least consideration, if his general propositions are true. I am compelled, therefore, from necessity, to assert the contrary of all that the Secretary has asserted, and to take the burden of refuting what it would seem to have been rather his duty to establish. These are points, sir, to which I shall especially call the attention of the House, as involving principles of the highest public importance—principles which, if this House shall affirm them, they will affirm that all power over the Treasury is gone from Congress, and that there is but a single Department in the Government.

The first proposition is that with which the Secretary begins his letter. The Secretary says—

“It has been settled by repeated adjudications, that a charter granted by a State to a corporation like that of the Bank of the United States is a contract between the sovereignty which grants it and the stockholders. The same principle must apply to a charter granted by the United States; and, consequently, the act incorporating the Bank is to be regarded as a contract between the United States of the one part, and the stockholders of the other; and, by the *plain terms* of the contract, as contained in the section above quoted, the stockholders have agreed that the power reserved to the Secretary over the deposits shall not be restricted to any particular contingencies, but be *absolute and unconditional, as far as their interests are involved in the removal*. The order, therefore, of the Secretary of the Treasury, directing the public money to be deposited elsewhere, can *in no event* be regarded as a violation of the contract with the stockholders, nor impair any right secured to them by the charter.”

That the House may have before them the section to which the Secretary refers, I beg their attention to it. It is the 16th section of the Bank Charter, which enacts:

“That the deposits of the money of the United States, in places in which the said Bank or branches thereof may be established, shall be made in said Bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; *in which case*, the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, *the reasons of such order or direction*.”

I beg the House to remark that this document proceeds from a gentleman of distinguished reputation as a jurist, trained to legal investigations, and fully acquainted with the legal effect and value of every word which he has used. The language he has adopted runs, “by the *plain terms* of the contract, as contained in the section above quoted, the stockholders have agreed,” &c. Sir, if the Secretary had said that the contract gave him this power by *implication*, or that he possessed it by the fair *interpretation* of the section, or by its *reason, spirit, scope, or intention*, my perplexity would have been less; but when he asserts that his authority is derived from the *terms* of the section, and from its *plain terms*, and that by those terms it is not restricted to any particular contingencies, but is absolute and unconditional, I feel some doubts whether there is that common medium of a common language between the honorable Secretary and myself which is so indispensable to profitable argument. If I rightly understand the proposition, it has no authority in the terms, nor in the reason, spirit, or intention of the section; and it is as revolting to good sense, in the strength of the language which the Secretary has used, as it is to the rules of law. It asserts that, in no event, right or wrong, not even in the extremest case of wilful injustice or fraud, (a case which I am far from supposing to have been in the view of the Secretary, though his language comprehends it,) could the Bank assert the least violation of

faith by the Secretary's removal of the deposits. Sir, I submit to the House that the contrary proposition may be easily shown to be true, and therefore that the Secretary's proposition is not true.

The right of the Bank to the deposits is derived from contract; a valuable consideration having been paid for it, in a bonus to the Treasury, and in a stipulation for expensive services to be performed through the whole term of the charter. A right in the Secretary to remove those deposits, without good cause, during any part of the time, is not to be presumed, but the contrary; and it should not be conceded, until it is shown to be required by the clear and plain meaning of the whole section. The terms of the section, instead of giving to the Secretary an absolute and unconditional power to remove the deposits, require that he shall have reasons for the removal, which reasons he shall immediately communicate to Congress. This is the condition upon which the Bank submits to the exercise of his power—that he shall have reasons, and communicate them; and such is the agreement of the parties. The whole section is agreement, as the whole charter is. It is all contract, from the beginning to the end. Now, if Congress have agreed with the Bank that the Secretary shall give his reasons for the act, and, consequently, that he shall have reasons, the difficulty, sir, is to understand how, according to approved rules of interpretation, these reasons can be considered as of no concern to the Bank, but only to Congress; how we can understand that it is of no sort of moment to the Bank whether there are reasons or not, when the Bank is to be affected by the removal, and Congress have agreed with the Bank that the reasons shall be given. Sir, in my judgment, the Secretary has directly inverted the object of the provision. The reasons concern the Bank only, and not Congress: or rather, they concern Congress only because they concern the Bank. The contract for the deposits with the Bank is a mockery under any other interpretation. Congress is above the reasons. Whether good or bad, she can do right and justice to herself, whatever the Secretary may argue. The Bank, on the other hand, is wholly dependent upon them, and has no other protection from injustice; and the stipulation for communicating the reasons to Congress is, therefore, for the plain and manifest object of giving to the Bank the benefit of a review by Congress, upon such principles as ought to govern such a contract.

Sir, the honorable member from Tennessee seems to me not to have been fortunate in his reference to the former head of the Treasury, Mr. Crawford, for his doctrine on any branch of this case. On this, in particular, the opinion of Mr. Crawford was directly against him, as well as against the present Secretary, and in favor of that interpretation which I suppose to be the true one. On the 25th May, 1824, the select committee on the memorial of Ninian Edwards, reported that, in certain instances, deposits of the public money were made by Mr. Secretary Crawford in certain State banks situated in places where the Bank of the United States had branches, and that he made no such communication of his reasons to Congress as the charter requires. "This omission," says the committee, "is acknowledged by the Secretary, who says it was owing to inadvertence; and

that the inattention to the provision of the law was unimportant, inasmuch as the provision was intended *obviously for the benefit of the Bank*, and the Bank had full notice." (Reports of committees, 18th Congress, 1st session, document 128.) The doctrine of the present Secretary is, that the provision was not intended at all for the benefit of the Bank; but that, so far as regards the Bank, his power of removing the deposits is, by the plain terms of the section, absolute and unconditional.

The honorable member from Tennessee is not more fortunate in the suggestion of his own reasons for supposing the provision to regard Congress and not the Bank. I understand him to have said that the section required this communication from the Secretary, that Congress might know, 1st, where the deposits were made by the Secretary after their removal; and 2d, whether the Secretary was or was not liable to impeachment for the act. Now, sir, I think myself entitled to ask it as a concession from the honorable member, that a communication of the *fact* where the public money is placed, is not a communication of the *reasons* why it was removed from the Bank of the United States. That fact is precisely what the Secretary is not directed to communicate. His communication is, by the plain terms of the section, confined to the reasons for ordering and directing that the deposits should not be made in the Bank or the branches thereof. As to the object of impeachment, sir, it is as much in derogation of that principle of our constitution, that no man shall be compelled to be a witness against himself, as it is of the character of the Legislature for plain and honest dealing with its officer, to impute to it the design of drawing the Secretary of the Treasury into a confession which may be read against him to the Senate. No, sir; this was not the design of Congress, nor can any course of decent reasoning sustain the enormous proposition of the Secretary, that his power is absolute and unconditional. It is a power which Congress did not, could not, give. An absolute and unconditional power, derived by implication from a contract, for valuable consideration, belongs to doctrines which a court of justice would spurn from its hall. It has no countenance in our institutions; it has none in our constitution, which was ordained to establish justice, as well as to secure the blessings of liberty; it has no countenance from any thing but the poverty of the case, which, finding a reason to be impossible, makes it unnecessary.

Sir, the interpretation of the section is, to my mind, abundantly clear. The Legislature did not see fit to part with the absolute right to the deposits, nor to make the right of the Bank a *judicial* question by defining the exceptions to it. In consequence of the fiscal relations of the Secretary of the Treasury to the Bank, and of the probability that whenever the proper reasons should occur they would call for immediate action, the parties have agreed that he shall exercise a *provisional* power over the subject, under the stipulation that his reasons shall come immediately to Congress for their review, upon such principles as belong to the contract; and if, according to those principles, the reasons of the Secretary are insufficient for the act, then it will be an open breach of the public faith, not merely sanctioned, but

committed by Congress, not to send the deposits back to the Bank, whose right to them is unimpaired. If, after the payment of a million and a half of money as a bonus, and the performance of costly duties to this period of the charter, and to be continued to the end of it, together equivalent to an annual payment of two hundred thousand dollars for twenty years, the Secretary has removed the public money without adequate cause, it is possible, indeed, that an artificial argument may be made to sustain the act; but reflection in this House, and by this people, will infallibly bring the question back to the ground upon which it must ultimately rest—the ground of common sense and common justice, upon which alone the faith of the nation is to be defended, if it can be defended at all.

Mr. Speaker: The second general proposition of the Secretary affects this House as a component part of the legislative power, and affects the whole legislative power in the most critical manner, as may be seen by the proposition itself. "The place of deposit" could not be changed by a legislative act, without disregarding a "pledge which the Legislature has given," "although Congress" should be satisfied that the public money was not safe in the care "of the Bank, or should be convinced that the interests of the people of the United States *imperiously* demanded the removal." These are the plain terms of the Secretary, and the House must see what is their plain meaning; that, whereas the Secretary could overthrow this contract, with or without reason, right or wrong, Congress could not be relieved from it by the most imperious reasons; that as his action could under no circumstances impair the contract, so the action of Congress upon it could, in no event, be otherwise than illegal.

Sir, there is one characteristic of these propositions, for which I acknowledge myself to be indebted to the Secretary; they are so strongly stated, that it is impossible to mistake their meaning. While the Secretary asserts every power over the subject in himself, he denies the existence of any power in Congress over the same subject. The use and design of the doctrine are, at the same time, as clear as its meaning; it is the only and the indispensable justification of the Secretary's extreme action upon the deposits so shortly before the present session of Congress; and, if this justification fails, he is without any.

The question, sir, concerns the interpretation of a statute. The extent of the Secretary's authority, and of the restriction upon that of Congress, must be collected, therefore, in the ordinary way, from the fair scope and meaning of its provisions, in their application to the subject-matter; and the House must consequently feel some surprise that the Secretary should have adopted the interpretation which he asserts, in a state of mind that ought to have carried him to the directly opposite conclusion. His letter proceeds to say: "The power over the place of deposit for the public money would seem properly to belong to the legislative department of the Government, and it is *difficult to imagine* why the authority to withdraw it from this Bank was *confided exclusively to the Executive.*" I must state it as an extraordinary fact, in the history of legal interpretation,

that, when the learned Secretary admitted that he could not imagine why the meaning should be what he asserts it to be, it did not occur to him that this was one of the best reasons in the world for holding that its meaning is not what he asserts it to be. If a court of justice should be told by learned counsel that he could not imagine why the meaning he gave to a statute should be its meaning, he would probably be admonished to try the effect of his imagination upon a different construction, and it would be very likely to assist him in obtaining the true construction. The Secretary says, he cannot imagine why the power was confided exclusively to the Executive. I hold, sir, with submission, that the power is not confided to the Executive, either exclusively or at all. The position is directly repugnant to his first proposition, that the power of the Secretary is *absolute and unconditional*, and it is equally repugnant to the laws and constitution, as they have created and fashioned the Executive department. The Secretary is not the agent or officer of that department in the performance of the trust committed to him by the 16th section of the charter, nor in the performance of any of the trusts committed to him by Congress, in regard to the control of the public treasure. In these particulars he is the agent and officer of that department which levies and collects taxes, duties, and imposts; pays the debts of the nation; borrows money; raises and supports armies; provides and maintains a navy; makes appropriations, and keeps the public treasure under its own control, till, in virtue of a legal appropriation, it is drawn out of the Treasury. He is the agent and officer of Congress, and not of the Executive.

This, sir, is a question of vast importance, not more in relation to the recent transaction, than to the due order of this Government, under all future administrations of it. It is not a point now raised for the first time, though possibly for the first time made a topic of controversy. The distinction is coeval with the constitution. It may be traced, in the clearest characters, through the first organization of the Executive department and of the Treasury; and, if it did not lead to public discussion then, it was because it challenged universal assent. It is impossible to explain the structure of these different departments or offices upon any other theory. I ask the attention of the House to the consideration of this point.

The act of 27th July, 1789, entitled "An act for establishing an Executive department, to be denominated the Department of Foreign Affairs," enacts that the Secretary for that department (now the Department of State) "*shall perform and execute such duties as shall, from time to time, be enjoined on or intrusted to him by the President of the United States, agreeably to the constitution*, relative to correspondences, commissions, or instructions, to and with public ministers or consuls from the United States, or to negotiations with public ministers from foreign States or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the said department: and furthermore, that the said principal officer shall conduct the business of

the said department in such manner *as the President of the United States shall, from time to time, order and direct.*"

The act of 7th August, 1789, entitled "An act to establish an *Executive* department, to be denominated the Department of War," enacts that the Secretary "*shall perform and execute such duties as shall, from time to time, be enjoined on or intrusted to him by the President of the United States, agreeably to the constitution, relative to military commissions, or to the land or naval forces, ships or warlike stores of the United States, or to such other matters respecting military or naval affairs, as the President of the United States shall assign to the said department, or relative to the granting of lands to persons entitled thereto for military services rendered to the United States, or relative to Indian affairs: and furthermore, that the said principal officer shall conduct the business of the said department in such manner as the President of the United States shall, from time to time, order or instruct.*"

The act of 30th April, 1798, entitled "An act to establish an *Executive* department, to be denominated the Department of the Navy," enacts that it shall be the duty of the Secretary "*to execute such orders as he shall receive from the President of the United States, relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as all other matters connected with the naval establishment of the United States.*"

The provisions of these acts require no commentary. They place the departments wholly under the direction of the President, agreeably to the constitution, in all that regards the exercise of his constitutional powers over foreign affairs, the army, and the navy.

The act of the 2d September, 1789, for the establishment of the Treasury Department, pursues a strikingly different course. It drops from the title the denomination of *Executive* given to the other departments—not by accident, but by design, as the word "*Executive*" was contained in the title of the bill when reported by committee, (see Journal 1st & 2d Cong. vol. 1, p. 57,) and, what is more material, it enacts that it shall be the duty of the Secretary "*to digest and prepare plans for the management and improvement of the revenue, and for the support of the public credit; to prepare and report estimates of the public revenue and the public expenditures; to superintend the collection of the public revenue; to decide on the forms of keeping and stating accounts and making returns; and to grant, under the limitations herein established, or to be hereafter provided, all warrants for moneys to be issued from the Treasury, in pursuance of appropriations by law; to execute such services relative to the sale of the lands belonging to the United States as may be by law required of him; to make report and give information to either branch of the Legislature, in person or in writing, as he may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform.*" The name of the President

is not mentioned in the act, except in the 7th section, which charges the assistant with the duties of the office, in case the Secretary is removed by the President; and the bond of the Treasurer, prescribed by the 4th section, is not to be approved by the President, but by the Secretary of the Treasury and Comptroller.

It is not meant to say, sir, that the Secretary of the Treasury performs, or is bound to perform, no duties of an Executive department, or that, in the performance of any such duties, he is not subject to direction by the President; but it is meant to say that the Treasury Department is not, in its control of the Treasury, an Executive department, in the constitutional sense; and that the direction which is to govern the Secretary, is left, by the terms of the act, to be settled according to the character of the function to be exercised. The Secretary is not the head of an Executive department, in the performance of acts which concern the custody and security of the public moneys in the Treasury. His department is not, in this respect, a Presidential department. To have placed the custody of the public Treasury within the Executive department, would have been a constitutional incongruity, a solecism, to say nothing of the enormous mischiefs to result from placing the power of the sword and the purse in the same hand. It would have marred the harmony and simplicity of the whole scheme of the constitution, by leaving to Congress the duty of paying the debts and providing for the common defence and welfare, while the money collected for these objects was not under their control, but in the hands of a different department. It would make, and the adoption of the doctrine does make, the power of appropriation entirely futile, because the public money is, by force of it, as little under the control of Congress before appropriation as it is afterwards; and it gives the control of the public treasure, so far as the position and distribution of it can give such a control, to a department that can wield the whole force of the revenue, against the legislative department and the people.

The argument of the honorable gentleman from Tennessee here cuts into the subject by means of the power of removal from office; and, with the aid of the debates in Congress, when the act for organizing the Department of Foreign Affairs was on its passage, he contends that the President may *direct* the Secretary of the Treasury in the discharge of his duties of every description, because he may remove him. Sir, I do not adopt his conclusion. It does not flow from his premises, and a better conclusion flows from better premises.

The power of *removal* is a great question, which I do not mean at present to agitate. It has been allowed, by implication and usage, to the President of the United States, for different reasons; and the argument handed down to us on this head is perhaps not altogether as clear, consistent, and intelligible as the great names connected with it would lead us to expect. It is probably imperfect. It is, however, plain, from what remains of it, that the gentlemen who asserted this power did not all do so for the same reasons. It would seem to have been the opinion of some, that the power of removal was an Executive power, or a power of the Executive department.

Others, who did not agree to this, thought it belonged to the appointing power, which was substantially in the President. And some, who differed from both, deemed the most convenient and safest position of the power to be in the President, who, by its immediate exercise, might resist the aggressions of dishonesty, or prevent the mischiefs of incompetency. No one, sir, appears to have thought that the power belonged to the President, because he had a right to *direct* all officers appointed during pleasure; although it is clear, from the argument of Mr. Madison, that the force of that principle was very striking in its influence upon the question then directly before Congress—the right to remove the Secretary for Foreign Affairs. That eminent person said, “It is evidently the intention of the constitution “that the First Magistrate should be responsible for the *Executive department*. So far, therefore, as we do not make the officers “*who are to aid him in the duties of the said department* responsible to him, *he is not responsible to his country.*” This, sir, is very striking, but it goes no further than the duties and responsibilities of an Executive department, in its constitutional sense. If the honorable gentleman can make it out that the keeping and control of the public Treasury are duties of an Executive department in that sense, he will gain a better support for his argument than I have yet heard.

The principle which, it seems to me, sir, must govern this question, and that which I take the liberty of stating to the House, as the only satisfactory one that has occurred to me, is this—that the *right of direction*, where it exists at all, results from official connexion, subordination, and responsibility, and not from tenure of office. If the duty belongs to the Executive department, the right of direction is in the head of that department, who is responsible for the performance of all its duties. If it belongs to the Judicial department, the right is in the heads of that department—the courts. If it belongs to the Legislative department, the right of direction is in Congress. The direction in these several cases, by force of this principle, is in perfect harmony with the system. It proceeds from official responsibility in the principal, and official duty in the subordinate officer to follow what the principal directs. The officer is bound to obey the principal, because the principal is responsible for him in the very matter directed, and his direction is a justification to the officer who obeys him. Any other principle must produce perpetual conflict and confusion. The attempt to make a test of the removing power, fails as soon as you apply it. The marshals are, as to matters of judicial cognizance, directed by the courts, to whom they are responsible, and for the proper direction of whom the courts are responsible; yet the courts do not appoint, and cannot remove, the marshals.

Sir, the question cannot well arise as to acts plainly prescribed. No one can assert an authority in the President to direct an act to be done, which the laws, or the courts, in conformity with the laws, direct not to be done; nor the contrary. It arises only in regard to discretionary acts. But the same principle regulates duties of every description, and especially duties which are committed by the law to the discretion of an officer. For abuse of that discretion, if answerable

to any thing but the law, he is answerable to the head of that department to which the particular duty appertains, and by that department he may be directed. The marshal is, in judicial matters, answerable to the court; in legislative matters, to Congress; and in executive matters, to the President. The Secretary of the Treasury, as it regards the Treasury, is answerable to Congress. To give the President the right of directing or controlling his discretion in such matters, is to make the Secretary responsible to the President, who is not responsible for him. This, sir, is the position upon which the doctrine I maintain may be safely placed. The President is not responsible for the duties which do not appertain to his department. His direction is no justification to the officer to whom the law assigns the duty to be performed, or to whom it has given the discretion to perform the act or not; he is, therefore, not bound to obey him, nor excusable for obeying him. Any other principle will give to the President the right of directing and controlling the discretion of every officer in the land except the Judges.

The answers given to these suggestions, sir, are not satisfactory. It is said, the President has the undoubted right to remove, and may, in this way, obtain the direction. Certainly the President may thus obtain the direction of men who prefer their office to their duty; but if he removes, to obtain a *power* of direction where he has not the *right*, he violates his own duty. The power of removal ought not to be so exercised.

It is further said, that all powers are legislative, judicial, or executive. The Secretary's power is neither legislative nor judicial, and therefore it must be executive, and belong to the Executive department. This is a confusion of language. The *departments* of our Government are legislative, judicial, and executive; and what does not belong to the first two, belongs to the third. But there are executive acts, that is to say, acts to be executed in the Judicial and Legislative departments, as well as in the Executive department. An act to be executed in the Judicial department does not belong to the Executive department. The question of the right of direction regards not merely the act to be done, but the relation in which it is to be done.

It is again said, that the constitutional power of the President to demand the opinion, in writing, of the officers of the Executive departments, touching the duties of their respective offices, shows the dependency of these officers upon the President, and his responsibility for them. This may or may not be so; but it leaves the question, what is an Executive department, in this sense, precisely where it found it.

Again: it is said that the President is bound to take care that the laws are faithfully executed. This proves too much for the argument, as, if it proves any thing, it proves that the President may direct the judges as well as other officers during pleasure. The supervisory power cannot interfere with the exercise of discretion in the Secretary, when the law gives it to him, because the faithful execution of the law consists in the exercise of his discretion; and whoever disturbs that exercise, violates the law instead of executing it. It is a power that

does not enlarge the President's authority, but rather declares the result of other powers before given to him in the constitution. It is corrective, to put aside, where his power is adequate, both dishonesty and incompetency; but it is not directory nor transcendental, to bring all the officers and operations of the nation under his sway.

Finally, it is said that the power of removal is fairly applied to discharge an officer who does not do his duty; and how can this be, if the President cannot decide what is his duty, and, consequently, direct its performance? Sir, the President is responsible for the use and abuse of his power. If he exercises it fairly, to remove an officer who does not do his duty, it is well. But if the discharge is colorably for this, but really to enforce a direction which he had no right to give, he gains the power he ought not to have, by the abuse of the power he has.

These are the remarks, sir, which I have supposed would show the inaccuracy of the Secretary, in that part of his letter which attributes a power over the deposits to the Executive, or to the Secretary as an Executive officer. In this matter of the deposits, he is emphatically the minister or agent of Congress. He is to give reasons to Congress, and they are consequently to be his own reasons. The reasons of the President are not given, and would not be a justification to the Secretary, if they were. The Secretary is to give them to Congress, his principal, and not to the head of the Executive department, to whom, in this matter, he does not sustain an official relation. It is a charter authority, and to be pursued as the charter directs. Under this charter, the President has several powers, such as to appoint commissioners to receive subscriptions, to appoint directors, and to issue a writ of *scire facias*. The Secretary, also, has powers, as to require transfers of public money, and to remove the deposits, giving his reasons. It is humbly apprehended that these are different powers in relation as well as in action, and that the President cannot assume those which have not a relation to the department of which he is the head.

But how would it follow, sir, if this were otherwise, that Congress cannot remove the deposits in any event, as the Secretary avers? It would seem as if the grant to the Executive was set up as a less startling reason for denying the power to Congress, than a grant to the Secretary would be; but the power is inherent in Congress. It is one of which they could not divest themselves absolutely and unconditionally. They hold it now, as they always must hold it, subject only to the right of the Bank; that is to say, except so far as the charter gives the right of possession to the Bank. This right of the Bank grows out of her covenant to afford safety and to render service. The continuance of her right depends upon the performance of her duty. The covenant of the nation, to leave the deposits with the Bank, and of the Bank to keep them secure, and to perform other duties in regard to them, are mutual and dependent covenants. If the Bank commits a breach, the covenant of the nation is either discharged or suspended, and Congress may take care of that which is the property of the nation; and if the acts imputed to the Bank were a sufficient cause of removal, Congress were as competent to decide them to be so, at the present

session, as the Secretary was before. The technical doctrine of the Secretary is inconsistent with the spirit of the charter, and with the safety of the nation. It strips Congress of all power, and lodges it where there is no responsibility either to the Bank or to Congress. It asserts, that Congress could not reclaim the control of the deposits, under any circumstances, from either the Bank, or its own minister. It leads to this extraordinary consequence, that if the Bank could have propitiated the Secretary to connive at the most corrupt employment of the public treasure, there would have been no remedy for it. If "offence's gilded hand" could have shoved by the Secretary, we should have seen "the wicked prize itself buy out the law." The proposition is wholly inadmissible in every possible interpretation of it.

Another proposition, sir, and the most alarming, from the great practical mischiefs which must flow from it, comes from the Secretary in the following terms: "That the power reserved to the Secretary of the Treasury does not depend for its exercise merely on the safety of the public money in the hands of the Bank, nor upon the fidelity with which it has conducted itself; but he has the right to remove the deposits, and it is his duty to remove them, whenever the public interest or convenience will be promoted by the change." In another part of his letter, the Secretary of the Treasury says that it is his duty to remove the deposits "whenever the change would *in any degree* promote the public interest." And again he says: "The safety of the deposits, the ability of the Bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

The application of this doctrine to the present power of the Secretary over the deposits in the State banks may be seen from another part of the letter. The Secretary says: "The law incorporating the Bank has reserved to him, in its fullest extent, the power he before possessed. *It does not confer on him a new power, but reserves to him his former authority, without any new limitation.*" Consequently, it is the Secretary's apprehension that he now has the same power over the deposits in the State banks, which he claims to have had over the deposits in the Bank of the United States; and it is this which makes the subject worthy of the special attention of the House.

Sir, it is an abuse of language to call the charter direction as to the deposits, a contract, if this be the Secretary's power. It has none of the features or binding force of a contract. It is wholly dependent on his mere favor, pleasure, opinion; upon any thing short of, and indeed not short of, the most fantastic caprice. The Bank has no contract with the nation under this construction; and, sir, when I regard the necessary effects of the asserted power upon the nation at large, the interests of the Bank disappear; she ceases to be an object of the least consideration. What are convenience and interests? Where are they defined? What acts promote them? What is *any degree* of them? What law has made the Secretary of the Treasury a judge of them? This nation and this House are variously divided

in regard to almost all the topics of general convenience and interest that are discussed before them; and here is a challenge of the right, by a single officer of the Government, to direct the momentum of the whole revenue of the United States to the support of what he thinks fit to regard as the general interests and convenience of the people; and he challenges it as the power with which his office has been clothed since its creation. A more extravagant proposition has never, in my humble judgment, been asserted; and it is as unsound in reference to the subject to which it is applied by the Secretary, as it is dangerous to the liberty and welfare of the country. The question of general convenience and interest, in regard to the public deposits, was settled by Congress when they agreed that the Bank should have them; and it was settled for the whole term of the charter. The Secretary has nothing to do with it. The power of removal was given to him to be exercised for the promotion of a particular interest, or the remedy of a particular mischief, and for nothing else. General convenience and interest are results with which Congress have never trusted him, or meant to trust him, or any body but themselves.

The authority given by the charter to the Secretary of the Treasury is official, and not personal; and, by necessary implication, it is limited by the sphere of his office. His powers and duties are fiscal, and the functions of his office are the index to the reasons for which, and for which alone, he has authority to remove the deposits. His reasons must grow out of his relations to the Bank, to the treasure in its custody, and to the collection and disposition of that treasure, which the law confides to him. If the deposits are not safe, his official connexion with the Bank will apprise him of it: he has the means of ascertaining it by the returns made to him, and by examination of the general accounts of the Bank, if he is not satisfied with the returns. If the Bank does not perform its duties to the Government, of paying and transferring the public funds, the Secretary knows it, because he is the officer to direct the service, and to watch over the performance. And, beyond this, what official authority has the Secretary? What official duties does he perform that can instruct him with reasons for the removal of the public deposits? Sir, he must leave his office before he can obtain them, and enter into departments which do not belong to him: he must take charge of interests that have not been confided to his office. I have stated to the House why these reasons have not been explicitly defined in the act, and that it was to continue a control over the Treasury, which Congress thought might be impaired if the conditions of its exercise were more explicitly stated. In the eye of a court, there is discretion, regulated by an appeal to Congress. In the contemplation of Congress, there is limited power, regulated by the duties of the Treasury Department, in its relations to the Bank. Sir, it is a stain upon the Congress that incorporated this Bank—it is a stain upon the first Congress that organized the Treasury Department—to say that they placed in the power of unknown men for an indefinite period, and for a period of twenty years without the right of recall, the whole revenue of the United States, to be used as the Secretary should think the general convenience and interest of the public re-

quired. Is it so, sir? And will this House affirm this proposition of the Secretary? Let the nation look to it. If it should be the Secretary's opinion that it is for the general convenience and interest of the people that manufactures should decline and die away, he brings a dearth upon the land—he draws the public treasure to another quarter—and they perish. If internal improvements are not to his mind—if Pennsylvania wants a loan, if New Jersey requires funds, to assist them—if there is any proposed rival interest which would be promoted by their decline—his mandate to the State banks, in promotion of general convenience and interest, consummates the design. The currency is his, to regulate at his pleasure, and every thing dependent on it. Sir, if this theory of the Secretary be true, it was the duty of the Bank of the United States, it is the duty of the deposit banks, to submit to his pleasure. If his power is constitutionally and legally what he asserts it to be, it is the duty of the banks to become his slaves. If all this power over the Treasury is his lawful power—if he is the arbiter of general convenience and interest—if the Executive is the only head to direct and control him—it is a theory of universal subserviency to the Executive, for the profits that are to spring from the application of the public treasure. It never occurred to me, sir, that men, treading the soil of a republic, would present such a doctrine for the review and sanction of Congress.

It has been said, that both Secretary Crawford and Secretary Ingham have asserted a similar doctrine. Sir, without meaning the least disrespect to those officers, I may be permitted to say, that arguments in favor of power are not entitled to most consideration when they come from those who are to exercise it. A Treasury argument, in favor of Treasury power, is not quite as much to be relied on, as an argument for the same power even from some other department. But, sir, the authority is not exactly as it is apprehended to be. In regard to Mr. Secretary Ingham, there seems to have occurred one or two animated passages between himself and the President of the Bank, in the course of which a menace was let off, as to the use of the public deposits, for a certain purpose, or in a certain event; but nothing to the effect threatened occurred. Mr. Secretary Crawford did act, but I do not admit that his action sustains the present Secretary; or, if it does to a small extent, its effect is taken off by the opinion of a committee of this House, of whose report a part was read the other day by the honorable member from Tennessee. The Secretary of the Treasury was invested, by the joint resolution of 30th April, 1816, with the largest powers, to cause the taxes and other moneys accruing, or becoming payable to the United States, to be collected and paid in the legal currency of the United States. He was required and directed to adopt such measures *as he might deem necessary*; and there can be no doubt that such an authority gave to that officer a power, which, since the entire and effectual restoration of specie payments, has ceased to exist. The history of the disposition of the public moneys by Mr. Secretary Crawford, who came into office in the fall of that year, is given in the report of the committee upon the memorial or address of Ninian Edwards, made

to this House in May, 1824. There appear to have been in the year 1818, and afterwards, two descriptions of acts by Mr. Crawford affecting the public deposits. One of them consisted in using certain State banks to the West as depositories of the public money, for the sake of the revenue itself, and because the Bank of the United States would not receive on deposit, as cash, any thing but the legal currency of the country or its own notes, in which the large receipts of the United States could not at that time be collected. There consequently were cases in which the deposits could not be made in the Bank of the United States, because the Bank would not receive them in that form alone in which the Treasury could make them. It was not, as I apprehend, a case of omission to deposit the public moneys in the Bank of the United States, but an omission to deposit in that Bank moneys which the Bank would not receive, and was not bound to receive as moneys at all, because, although nominally they were the notes of specie-paying banks, substantially they were not such notes as the Bank thought it could convert into specie. This was not a case of exercise of power under the 16th section, but a case of necessity, arising from the lawful refusal of the Bank to receive the deposits in the only form in which the Treasury could make them. The other acts referred to were of a different kind, and they consisted of such dispositions of the public money as Mr. Crawford, in his letter of 13th February, 1817, cited by the present Secretary of the Treasury, says he has authority to make: that is to say, deposits made with State banks, to sustain their credit. Upon this point, the committee explicitly say that "*this is no legal employment of public funds; it is nothing but a gratuitous loan,*" which, certainly, the Secretary was not authorized to make, whatever was the practice. It was precisely of the same character as the transfer drafts, which appear to have been placed, by direction of the present Secretary, in different hands, during the removal of the public deposits from the Bank of the United States, and which are liable to precisely the same criticism. The authority of Mr. Secretary Crawford, therefore, does not seem competent for the purpose for which it has been cited.

The fourth and last general proposition of the Secretary is that which asserts, that, as the propriety of removing the deposits was evident, it was consequently *his duty* to select the places of present deposit. Sir, on this point I do not mean to ask any considerable attention of the House; for, although I hold the act of the Secretary to be against the law of Congress, and one from which the most critical consequences may result, it is not altogether, as I learn, without the countenance of a previous Treasury practice, and I mean not to press it to any other purpose than as a caution to be adverted to in the disposition of the general subject. The authority of the Secretary of the Treasury, under the 16th section of the charter, is not to remove the deposits, as his letter supposes, but merely to order and direct that they shall not be made in the Bank of the United States. When the deposit in that Bank ceases to be lawful by the order of the Secretary, the general law takes up the subject, and that law gives to the Treasurer the power which the Secretary has undertaken to

exercise. The 4th section of the act of 2d September, 1789, is entirely explicit, "that it shall be the duty of the Treasurer *to receive and keep* the moneys of the United States,"—"to submit to the Secretary of the Treasury, and to the Comptroller, or either of them, the *inspection of the moneys in his hands*," and to give bond, with sufficient sureties, in the sum of \$150,000, payable to the United States, "with condition for the faithful performance of the duties of his office, and *for the fidelity of the persons to be by him employed*." It is the Treasurer who is to choose the place of deposit; and he is the best officer in theory, as well as the only officer by the law, to perform the act; because the doctrines of general convenience and interest are not so likely to reach him. His object will be security, and his bond is the motive for obtaining it. If there is a Treasury practice that has displaced the Treasurer, the practice should be made to conform to the law, or the law to the practice. As the case now stands, the money of the United States is not deposited where it is, by direction and under the sanction of the law. It is placed in the deposit banks by an officer who has not the authority so to place it; and, in case of controversy, it may possibly be found, not only that the bond of the Treasurer is of no avail, but that remedies for the loss or detention of the deposits, are not to be obtained in the name of the United States, or in the courts of the United States, but in private names and in State courts, with all the contingencies incident to litigation in this form. Whatever may be the practice, it is not becoming, sir, that the Treasury of the United States should be in any predicament but that precisely in which the law has given its direction to place it.

These general propositions of the Secretary are, then, I submit to this House, one and all of them, unsound, and without foundation in law; and some of them are pregnant with most alarming consequences to the public safety and welfare. If his particular reasons are dependent on them, as they doubtless are, they fall with their foundation; and they have, moreover, peculiar defects of their own, as will be seen by the details of more interest to which their consideration will give rise.

Sir, the Secretary admits that the public deposits were safe in the Bank of the United States. He admits that the Bank has faithfully performed its duty to the Government in every stipulated form. He admits it, by the clearest implication, in various parts of his report to Congress, and places the order of removal upon entirely distinct grounds. The only valid causes of removal are, then, in my humble judgment, wanting; and, if all the particular causes asserted by the Secretary could be sustained in fact and law, they would fall short of a justification. They will, however, be found, one and all, to be without support.

Sir, the first and principal reason for the order of the Secretary is, that the present charter of the Bank will expire in March, 1836, and that it is not to be renewed. I do not mean to detain the House with a commentary upon the novel spectacle of a Secretary of the Treasury instructing Congress upon the subject of his constitutional opin-

ions in regard to the charter of the Bank, or upon what they will or will not think fit themselves to do in regard to the renewal of the charter. For the purposes of this inquiry, I grant that the charter is not to be renewed. The question is, how does that circumstance justify the present removal?

The manner in which the Secretary develops his reasoning on this head is as striking as it is plain and intelligible. He begins by an averment, that, if the deposits should be left in the Bank until the expiration of the charter, it may be doubted whether the Bank will have the ability to be prompt in paying them to the Government. He proceeds to suggest that the circulation of the Bank, moreover, if it continues out till that time, will become a depreciated currency, not merely by the character of the paper, but by the cessation of the public guarantee; that the Bank should be made to reduce her circulation, by reducing her discounts; that the removal of the public deposits will compel her to make this reduction; and that the State bank circulation being pushed out, in its place, by means of these deposits made elsewhere, the notes of the Bank of the United States will be withdrawn, and a currency *probably more uniform* be substituted in its place.

Sir, whatever may be the merits of this plan, there is no doubt that it is perfectly intelligible. It is an operation we are acquainted with. We know what it means, and what it is to bring to pass. But the question in this place is, what right had the Secretary to take the public moneys from the Bank of the United States, because its charter was to expire in March, 1836? What authority did Congress mean to give him over the deposits, from the simple fact of lapse of time? I confidently assert, none whatever. There was no contingency in the circumstance. It was matter of fatal necessity. It must occur; and the Secretary could not be better informed that it had occurred in 1833, than the Congress which granted the charter in 1816 were then informed that it would occur. Sir, it was just as well known in 1816 as it now is, that the 1st of October, 1833, was separated by two years and five months from the 1st of March, 1836; and if lapse of time had not been deemed an inadequate cause for the removal, Congress would themselves have ordered the deposits to be removed at the time they thought proper, and have made the removal at that time a matter of positive enactment, and not of contingency. Now Congress have not only not done this, but they have done the contrary. They have chartered the Bank for twenty years; they have bound her to perform services for twenty years; and they have ordered the deposits to be made in her vaults, by necessary implication for the whole period, subject to the contingent exercise of the power of removal. It is a violation of the charter, without reasonable color, for the Secretary to make that removal upon the ground of mere time; and such is the ground his letter occupies, without reference to any contingency whatsoever.

The Secretary has wholly overlooked the provision in the charter which allows two years to the Bank for winding up its concerns, after the 3d March, 1836. That provision runs: "And notwithstanding

“ the expiration of the term for which the said corporation is created,
 “ it shall be lawful to use the corporate name, style, and capacity, for
 “ the purpose of suits, *for the final settlement and liquidation of the*
 “ *affairs and accounts of the corporation*, and for the sale and dis-
 “ position of their estate, real, personal, and mixed; but not for any
 “ other purpose, or in any other manner whatsoever, nor for a period
 “ exceeding two years after the expiration of the said term of incor-
 “ poration.”—*Sec. 21.*

“ As the act of Congress,” says the Secretary, “ which created the
 “ corporation, limits its duration to the 3d of March, 1836, it became
 “ my duty, as the Secretary of the Treasury, in executing the trust
 “ confided to me under the law, to look to that period of time *as the*
 “ *termination of its corporate existence.*” “ It was incumbent on me,
 “ in discharging my official duties, to act upon the assumption that
 “ this corporation *would not continue in being* after the time above
 “ specified.” Now, sir, the corporate existence is not so limited as
 the Secretary has felt it incumbent on him to assume. It is to con-
 tinue two years more, for the very purpose of enabling it to do that
 which the Secretary says shall be done before. There is no one
 operation which he wishes to compel the Bank now to perform, that
 she cannot most appropriately perform in the additional two years.
 She may diminish or reduce her discounts in any ratio she deems fit,
 five per cent. or ten per cent. a month, or more or less, as circum-
 stances may require. She may possibly bring in her circulation, in
 the same proportion, though that depends on the pleasure of the
 holder. She may do every thing she now does, but expand herself
 after having closed or liquidated a transaction. She cannot make a
 new loan, but she may continue in force the existing contracts, or
 settle and liquidate them as she may deem expedient. Sir, not only
 has the Bank the right to keep out her circulation, and to keep up
 her discounts during the whole term of the charter, which right she
 has purchased and paid for, but it is her duty to do it, unless she is
 disabled by the act of the Secretary. It was her promise in accept-
 ing the charter. Her duty to trade is to assist it; to her stockholders,
 it is to make an interest upon their capital; and, above all, her duty to
 the nation is to keep within the limits of safety, by due control and regu-
 lation, the very State bank paper which the Secretary desires to augment.
 For these duties, in addition to the greater design of securing and distrib-
 uting the public revenue, the Bank was created, and is bound to their
 performance as long as she can perform them with safety to herself
 and to the country.

Sir, the project of the Secretary of the Treasury astonishes me—
 it has astonished the country. It is here that we find a pregnant source
 of the present agony—it is in the clearly avowed design to bring a
 second time upon this land the curse of an *unregulated, uncontrolled,*
State bank paper currency. We are again to see the drama which
 already, in the course of the present century, has passed before us,
 and closed in ruin. If the project shall be successful, we are again
 to see these paper missiles shooting in every direction through the
 country—a derangement of all values—a depreciated circulation—a
 suspension of specie payments; then a further extension of the same

detestable paper—a still greater depreciation—with failures of traders, and failures of banks, in its train—to arrive, at last, at the same point from which we departed in 1817. Suffer me to recall to the recollection of the House a few of the more striking events of that day. The first Bank of the United States expired in March, 1811. Between the 1st of January, 1811, and the close of the year 1814, more than one hundred new banks were established, to supply this more *uniform and better currency*. For ten millions of capital called in by that Bank, twenty millions of capital, so called, were invested in these. In the place of five and a half millions, about the amount of circulation in notes of that bank withdrawn, twenty-two millions were pushed out. Then came a suspension of specie payments, in August and September, 1814. As an immediate consequence of this suspension, the circulation of the country, in the course of fifteen months, increased fifty per cent., or from forty-five to sixty-eight millions of dollars; and the fruit of this more uniform currency was the failure of innumerable traders, mechanics, and even farmers; of one hundred and sixty-five banks, with capitals amounting to thirty millions of dollars; and a loss to the United States alone, in the negotiation of her loans, and in the receipt of bankrupt paper, to an amount exceeding four millions of dollars. I take this summary from the treatise of Mr. Gallatin, on the Currency and Banking System of the United States, one of the most valuable contributions that great sagacity and an enlightened spirit of research have made to the political literature of this country, and which it is one of the sins of the present Bank that she has endeavored to diffuse among the people. This may enable us to apprehend what was lost, in the item of property alone, by this *better currency*. What it cost us in reputation, it is impossible to estimate. Does Kentucky wish to see the return of those days? Does Pennsylvania wish it? Does any man wish it, who has property, or the desire to possess it, and reason to discern the causes of its decay and destruction? I thank the Secretary for the disclosure of this plan. I trust in God it will be defeated; that the Bank of the United States, while it is in existence, may be sustained and strengthened by the public opinion and interests of the people to defeat it; that the sound and sober State banks of the Union may resist it, for it is their cause; that the poor men and laborers in the land may resist it, for it is a scheme to get from every one of them a dollar's worth of labor for fifty cents, and to make fraud the currency of the country as much as paper. Sir, the Bank of the United States, in any other relation than to the currency and property of the country, is as little to me as to any man under heaven; but after the prime and vigor of life are passed, and the power of accumulation is gone, to see the children stripped, by the monstrous imposture of a paper currency, of all that the father's industry had provided for them—this, sir, may well excuse the warmth that denounces this plan as the precursor of universal dismay and ruin.

I have said, sir, that it is the cause of the sound and sober State banks that I am defending. When the evils of such a currency prevail, the people do not discriminate. A bank note is a bank note.

Fear gives them all the same look to the apprehensive. If a few banks suspend their specie payments, many will do it; all must do it, unless they see the storm in its approach, and close their doors until its fury be spent. The Bank of the United States herself may well look for that day, if it comes in her time, with fear. Let her not be weakened before the hour of her trial. I should regard that man, sir, as one of the greatest benefactors of his country, who would devise, for the use of this people, some control over the paper currency of the State banks, and relieve us from the perpetual recurrence of constitutional doubts and party contention, to which the career of a Bank of the United States seems necessarily exposed. Control of some kind is essential—it is indispensable; there can be no property, or, what is the same thing, no security or uniformity to its value, without it. Let us have a respite from the evil while the law will give it to us. Let us not be turned off before the warrant of execution calls for it. Let two years more be given to sober reflection by the people, that there may be a *locus penitentiae* allowed to those who are now proposing this plan, without suggesting the means of control, or appearing to think that they are necessary.

But, sir, the Secretary says that the deposits will not be promptly paid, if they are left in the Bank until the charter expires, and it is his duty, therefore, not to leave them there. What is it that it is apprehended will cause this default? Does the Secretary suppose that private deposits will continue in the Bank to the same time, and, by their demands, interfere with the payments to the public? If individual deposits do not remain, all will be admitted to be well. The public deposits will be paid then, as they are now paid, promptly. If the private deposits do remain, and the bank notes continue in circulation to their old amount, then, sir, let the Treasury, for once, trust to the instinct of self-interest in the people, and believe that what all concur in doing for themselves, when they have the readiest means of doing otherwise, if they please, cannot be very dangerous to the public. Sound reasoning and experience alike expose this Treasury apprehension. A bank, having the resources that the Bank of the United States is admitted to have, when she arrives at the term of her charter, increases, from that moment, in strength; because her capital is then to be returned to her, and her debtors have been previously admonished that they must then be prepared to return it to her. Other banks may then assist, by their expansion, the liquidation of her debts, and they may do it safely, to a considerable extent, as she cannot have, or, if she has, she cannot exercise, a power to distress them by her demands, without combining a vast force of public opinion against her, that will effectually resist her. To ask of the State banks what it must distress them to give, and what is not necessary to the United States' Bank for operations then discontinued, would be as idle in her as the apprehension of it is in others. It cannot occur. There must be a reasonable arrangement between the United States' Bank and all the State banks who assist in absorbing her loans, to prevent or to mitigate the distress that the withdrawing of a large capital would otherwise occasion. This,

therefore, is the moment when the Bank of the United States will have the greatest power for her own protection, without having it for the annoyance of the State banks; and, unless there is a general crash which shall make deposits unsafe every where, they will be as safe in the Bank of the United States as they can be any where.

Sir, this is the result of experience, derived from an operation which the Secretary of the Treasury has strangely overlooked.

The honorable member from Tennessee, in the course of his argument, made one remark, which, not being at all necessary in the consideration of the present question, I may be excused for saying, was a remark which I regretted. The gentleman took occasion to say, that the first Bank of the United States was charged with having been given over to political abuses and to the aid of the aristocracy, in opposition to the Government of the country; and that, in this respect, the present Bank had followed in her steps.

Sir, I owe a debt to the directors of that first Bank which it would ill become me not to endeavor to discharge, in part, on such an occasion as this. I am indebted to those gentlemen for having first held out their hand to me in the path of my profession. With such of them as have passed away, I lived in unbroken friendship and affection till their death, and the few who remain are equally worthy of the sentiment. I should feel it to be an abandonment of my duty if I did not deny the imputation which has been cast upon them, not by the gentleman from Tennessee, but by those whom he quotes. I was a director of that Bank during the last years of her charter, when I was too young to govern her councils, though not to understand them; and, as one of those directors, I have assisted in liquidating her concerns. Sir, the directors of the parent Bank (I know nothing of the branches,) were a body of as honorable men, as impartial, and as faithful to their trust, as any men that ever lived. There was not a politician at their board, nor a man who gave up himself to any thing but the performance of duty to his trust. At their head was a gallant soldier, who, during the war of the Revolution, was a prisoner to the enemies of his country, and who, a few years since, descended to his grave, esteemed and respected by all who knew him, most of all for his rectitude as well as fearlessness of purpose, in the execution of every trust he undertook. Sir, I know the Bank was charged as the gentleman states, but the charges were unjust and untrue. From whom or why she received the bad name for which she was hunted down, it does not concern the present question to inquire.

It is the history of the liquidation of this Bank that the Secretary has overlooked, and it is the most triumphant answer to his doctrine of default and depreciation. Her charter expired on the 3d March, 1811, when her corporate existence ceased at once and forever.

On the 1st January, 1811, her situation was as follows:

The amount of her notes discounted and loans was	\$17,759,001
Public deposits, - - -	\$6,474,402
Private deposits, - - -	3,855,402
Notes in circulation, - - -	6,070,153
Specie, - - - - -	5,317,885

On the 1st March, 1811, it was as follows:

The amount of discounts and loans,	-		\$14,587,134
Public deposites, -	-	\$ 2,874,833	
Private deposites, -	-	3,583,596	
Notes in circulation,	-	6,552,875	
Specie, -	-	-	<u>4,835,702</u>

On the 1st September, 1811, it was as follows:

The amount of discounts and loans,	-		\$7,152,786
Public deposites, -	-	\$ 322,349	
Private deposites, -	-	448,112	
Notes in circulation,	-	2,963,209	
Specie, -	-	-	<u>4,500,527</u>

And on the 1st March, 1812, it was as follows:

The amount of discounts and loans,	-		\$3,792,975
Public deposites, -	-	\$ 81,517	
Private deposites, -	-	223,442	
Notes in circulation,	-	1,070,459	
Specie, -	-	-	<u>6,116,776</u>

Thus, from the 1st March, 1811, two days before the charter expired, to the 1st September, 1811, the Bank paid, as the above statements show—

Public deposites, -	-	\$2,552,484	
Private deposites,	-	3,135,484	
Bank notes, -	-	3,589,566	
			<u>\$9,277,534</u>

And her specie fell only \$335,175.

From the 1st March, 1811, to the 1st March, 1812, she paid—

Public deposites, -	-	\$2,793,316	
Private deposites,	-	3,360,154	
Bank notes, -	-	5,482,416	
			<u>\$11,635,886</u>

And her specie increased from \$4,116,776 to \$6,116,796, being an increase of \$1,281,074.

Comparing her capital with that of the present Bank, which is three and a half times greater, the present Bank might stand with equal safety on the 1st of January, 1836, with the following discounts and liabilities:

Notes and domestic bills,	-	\$62,156,503
Notes in circulation, -	-	21,245,530
Public deposites, -	-	22,660,407
Private deposites, -	-	13,493,907

Whereas, on the 1st of October, 1833, the discounts and liabilities of the present Bank were as follows:

Notes and domestic bills,	-	\$60,094,202
Notes in circulation, -	-	19,128,189
Public deposites, -	-	9,868,434
Private deposites, -	-	8,008,862

In one particular, and only in one, was the provision of the first Bank better, for the day of trial, than that of the present Bank. Her specie, on the 1st of January, 1811, was \$5,317,585, being more than equal to one-half of her capital; while that of the present Bank, on the 1st of October, 1833, was \$10,663,441—a little more than two-sevenths of her capital. The specie of the first Bank had been greatly augmented by importations under the royal orders from the Spanish colonies, which the embargo and other restrictions had prevented from going abroad; but it was increased, instead of being diminished, by the liquidation of her concerns. So much, sir, for the probability of default in paying the public deposits. As to depreciation of her notes, which the Secretary also apprehends—if the notes are to depreciate because they will be paid on presentation, because the quantity in circulation will be daily diminished, because the residue outstanding will be of increased value as exchange, and because, unless Congress shall pass a law to the contrary, the public guarantee will continue, then, but not otherwise, the Secretary's fears may prove true. Sir, the Secretary has erred, even as to the matter of the guarantee. The letter of the Secretary says that "this obligation on the part of the United States will cease on the 3d of March, 1836, when the charter expires; and as soon as this happens, all the outstanding notes will lose the peculiar value they now possess." The fourteenth section of the charter says otherwise. It says "that the bills or notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, *unless otherwise directed* by an act of Congress." They will be notes of the said corporation as much after the charter expires as they now are.

But, sir, this apprehension of the non-payment of the public deposits, if left in the Bank until March, 1836, will appear, from another paper presented by the same Department to this House, to have been changed into an apprehension that, at that time, there would be no deposits any where to be paid. "*Judging from the past*," the Secretary's letter says, "it is highly probable they will always amount to several millions." But a reference to the past, only, is not the best way of ascertaining what, under our altered revenue system, will be its amount. Accordingly, in his annual report on the state of the finances, made in the last month, the Secretary judges otherwise than by a reference to the past. I ask the attention of the House to a few extracts from this report.

The balance in the Treasury on the 31st of December, 1834, is estimated to be \$2,981,796 05.

The Secretary, after the statement which he deems necessary to justify this result, proceeds to say:

"In this view of the receipts of 1834, the income of the year will about equal the estimated expenditure; and, with the aid of the balance in the Treasury on the 1st of January next, it will be sufficient for all the wants of the Government, including the amount necessary to pay off the residue of the national debt."

He further says: "If the entire amount of appropriations proposed in the estimates for 1834 were also to be required within the

“ year, there would not be money enough in the Treasury to meet them, after satisfying the balances above stated, and paying off the public debt.”

He says further: “ In estimating the balance in the Treasury at the close of 1834, I have therefore assumed that a portion of the estimates of expenditures herewith submitted will not be used during the year; and that balances of appropriations, equal to the amount at the close of the present year, will, in like manner, remain in the Treasury at the end of the year 1834, and go into the expenses of the succeeding year; and it is not necessary to raise money for the public use sooner than it will probably be needed. But the balance stated at the end of 1834 is not to be considered as a clear surplus. It will still be chargeable with the amount of appropriations estimated to remain unexpended at that time.

“ From this state of the finances, and of the proposed appropriations, it is evident that a reduction of the revenue cannot, at this time, be made without injury to the public service. Under the act of the last session, the receipts of 1835 will be less than those of 1834, as a further reduction in the rate of duties will take effect on the 1st of January, 1835; *and if the appropriations should be kept up to the amount authorized for the present year, the charge upon the Treasury in 1835 would be more than it could probably meet. But the debt will then have been entirely paid; and, if a guarded rule of appropriation is at once commenced, there will be no difficulty in bringing down the expenditure, without injury to the public service.*

“ If the revenue is not to be reduced more than the existing laws provide for, there seems to be no sufficient reason to open, at this time, the vexed question of the tariff. The manner in which duties are now apportioned on different articles would be liable to insuperable objections, if it were to be considered as a settled and permanent system. But the law is temporary on the face of it, and was intended as a compromise between conflicting interests; *and, unless the revenue to arise under it should hereafter be more productive than is anticipated, it will be necessary, in two years from this time, to impose duties on articles that are now free, in order to meet the current expenses of the Government.*”

The existence of the several millions in the Treasury in March, 1836, is therefore to depend on the future action of Congress upon the report of the Committee of Ways and Means; and if the existence of any public money in any bank at that time is to depend on the future action of Congress, how could that constitute a motive for removing the deposits in October, 1833?

The Secretary of the Treasury presents another reason for withdrawing the deposits on the 1st of October, which is very remarkable. If I understand the Secretary, he makes the removal in October a consequence of the reductions by the Bank in August and September. The remarkable feature of this reason is, that the very effect he intended to produce by the removal, and which, if the Bank did reduce, was produced by the known intention of removal, is pre-

ferred as the ground of complaint against the Bank, and as the justification of the removal. He complains of the Bank, because she acted as if she meant to carry his design into effect; and he removes the deposits because the Bank took measures to prevent the removal from distressing her. The amount of reductions in August and September, as the Secretary states them, was \$4,066,146, or \$2,000,000 per month; and, as her discounts and bills in August were \$64,000,000, there is a simple rule in arithmetic by which we may ascertain the monthly reduction necessary to effect the Secretary's object during the thirty-one months of the charter which then remained. It is clear, sir, that the monthly reduction must be more than two millions; and now that the deposits are removed, and we are in the month of January, when the loans and bills stand at about \$55,000,000, the monthly reductions of the Bank for the twenty-six remaining months of the charter must be more than \$2,000,000, or the object which the Secretary meant to effect will not be accomplished. It is remarkable that the apparent coincidence of the Bank with the design of the Secretary should be a ground of complaint against the Bank.

The Secretary says, and gentlemen concur with him in saying, that the Bank have reduced too rapidly. Suppose it to be so; did the Secretary inform the Bank what amount of reduction he thought sufficient? Did he tell them of the amounts to be from time to time removed, and the places at which they would be required? No. He says that "the nature of the inquiry at the four principal banks," (of which the Bank knew nothing,) "showed that the immediate withdrawal, so as to distress the Bank, was not contemplated; and that "if any apprehensions to the contrary were felt by the Bank, an inquiry at the Department would no doubt have been promptly and satisfactorily answered." What, sir, was the Bank to come to the Treasury Department to ask for the suspension of a demand, which she was bound to be in readiness to pay whenever made? Is this to be said while the sound of the honorable member's voice, upon the subject of the three per cents, is still in our ears? While this House has in its fresh recollection the charge against the Bank, that she asked in March a suspension of the discharge of half the three per cents, from July to October, 1832, "because the Bank was not able to pay them?" No, sir; that was sufficient warning to Mr. Biddle not to approach the Department upon the subject, even had he been invited; and, if he had approached it, under any circumstances, we should have heard again the same changes rung upon the inability to pay the deposits that we have heard in regard to the three per cents. The master of the removal was in the Treasury. The time and proportions depended upon him; and, if his concern for the country was excited, if the reductions of the Bank were too rapid according to the Treasury views, the remedy was in the power of the Treasury, and should have been applied.

Sir, the Bank of the United States acted wisely and warily in August and September. Although the removal of the deposits did not take place until the 1st of October, the intention to remove was

fully known in July. The agency to negotiate with the State banks was announced in the *Globe* on the 25th of July; and, whatever the public might think, it was not for the Bank to act in any other faith than that the purpose would be immediately and relentlessly executed. It was the clear duty of the Board to prepare itself without a moment's delay. The position of the Bank was every where known to the Treasury Department by the weekly statements. Her widely dispersed branches were to be strengthened wherever they required it. Her circulation was large, and she was in the practice of assisting it by an almost universal payment at all points, without regard to the tenor of the notes. The House may judge of the extent of accommodation which the Bank was in the practice of giving, by the thirty-nine millions of these notes paid, out of place, in the year 1832. They may know it further by the fact, that, of these branch notes, \$1,540,000 were paid at the Bank of the United States in Philadelphia, during the very months of August and September, 1833. This circulation was to be sustained and increased, to be still more facilitated, as it since has been, to keep the people and the Bank from feeling the consequences of the measure. All this required that the Bank should not sleep upon her post. The least dishonor suffered by that Bank would have produced universal disorder in the country.

I understand the honorable member from Tennessee to say, that the reductions by the Bank, in August and September last, were greater than they ever had been in any other two months since her institution. I join issue upon this allegation. They have been greater in other months, and they were greater in the very same months of the preceding year.

In August and September, 1833, the amount reduced	
was - - - - -	\$4,066,146
In August and September, 1832, it was - - -	4,315,678

being the difference between \$68,008,988, the discounts and domestic bills in August, 1832, and \$63,693,310, their amount in October; and yet there was no alarm whatever in 1832. There was, moreover, a greater reduction, by a million and a half, from July to October, 1832, than there was between the same months in the present year, and without any distress or alarm.

The discounts and bills in July, 1833, were -	\$63,369,897
The discounts and bills in October, 1833, were -	60,094,202
Reduction, - - -	<u>\$3,275,695</u>
The amount in July, 1832, was - - -	\$68,416,081
The amount in October, 1832, - - -	63,693,310
Reduction, - - -	<u>\$4,722,771</u>

There was a greater State bank debt in October, 1832, than in the same month, 1833, and yet there was no alarm. In October,

1833, it was \$2,285,573, and in October, 1832, it was \$2,820,114. The reason of the difference may possibly show to gentlemen that mere reduction is an insufficient element for determining the pressure in the market. In October, 1832, the payment of the three per cents was to restore to the community a portion of the sums called in by the Bank. In October, 1833, the deposits were to go where individuals must have a less beneficial use of them, and where they could have no use of them, except as the State banks should choose to lend upon them.

Nor did the whole reduction, from October to December, 1833, cause the existing distress. It is well, sir, to present these details, that the House may reflect upon them, and learn how far the Secretary is responsible for the condition of the country. The Bank paid out, in the two months of October and December, \$246,766 more than she received from the community.

Receipts.

In October, 1833, her discounts and			
bills were	-	-	\$60,094,202
In December they were,	-	-	54,453,104
			<hr/> \$5,641,098

Payments.

In October the public de-			
posits were	-	\$9,868,434	
In December they were,		5,162,259	
		<hr/>	\$4,706,175
In October the private de-			
posits were	-	\$8,008,862	
In December they were,		6,827,173	
		<hr/>	1,181,689
			<hr/> 5,887,864

Excess of payments over receipts, - - - \$246,766

Nor was the reduction by the Bank of the United States, in the month of December, the cause of the distress.

In December, 1833, the discounts and bills were	\$54,453,104
In January, 1834, they are,	54,911,461

Showing an actual increase of	-	-	-	<hr/> \$458,357
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Yet, in that month, the public and private deposits were paid to the extent of \$1,024,058. Yes, sir, in this very month, when it has been said that the Bank had grasped the debtor's throat, to compel an outcry to Congress for the return of the deposits, the Bank extended her loans nearly half a million of dollars, while she paid more than a million of her deposits.

Nor was the entire reduction in the four commercial cities, from October, 1833, to January, 1834, the cause of the prevailing distress.

In October, 1833, the loans and bills in those places were as follows:

Philadelphia,	-	-	-	-	-	\$7,156,487
New York,	-	-	-	-	-	6,180,883
Boston, -	-	-	-	-	-	3,965,283
Baltimore,	-	-	-	-	-	2,033,318

\$19,335,971

In January, 1834, they are as follows:

Philadelphia,	-	-	-	-	-	\$7,979,233
New York,	-	-	-	-	-	5,970,055
Boston, -	-	-	-	-	-	2,316,034
Baltimore,	-	-	-	-	-	1,954,045

\$18,219,367

Making \$1,116,604 reduction in the four cities during the three preceding months.

The cause of the alarm and general paralysis are not to be found, then, in the conduct of the Bank of the United States. They are to be sought for and found in the removal of the deposits; in the universal derangement of the money system of the country by that means; in the just refusal of the United States' Bank to extend herself to her own undoing, or to keep herself unprepared for the coming storm, by remaining as extended as she was; in the inability of the State banks to use the deposits as beneficially as they were used before; and in the refusal of capitalists to lend their money and adventure their property in the face of a project to overwhelm the country with an uncontrollable State bank paper currency.

What, sir, does the Secretary of the Treasury expect of the Bank? What measure of justice does he render to her? He says, the design of removing the deposits was to compel reduction, and he censures her because she reduces. He complains that she increased her discounts and domestic bills, from December, 1832, to August, 1833, more than two millions and a half, when this was the very season in which trade requires the increase, and it was wholly in the purchase of domestic bills. He complains that she reduced her discounts, in August and September, 1833, four millions of dollars, when this is the very season of payment, when trade does not require the means, and three millions of the amount was by the payment of domestic bills which had arrived at maturity. He complains of the increase of loans in December, 1830, when they were \$42,402,304; and he complains of reductions in August, 1833, when they were twenty-two millions more, viz: \$64,160,349. He complains of reductions in 1833, when, in the whole, from June to December, they have been but \$610,508 more than they were in 1832; and the Bank has had also to pay the public deposits.*

* The statements which verify these positions may be more intelligibly placed in a note than in the body of the argument, as they were stated to the House.

1. The variations in the increase and diminution of discounts and domestic bills through the years 1832 and 1833, are shown by the following statement:

Sir, it is clear that the Bank must abide the reproaches of the Secretary, whatever she does. But what has she not a right to expect from this House, from the People, from the solid State banks, from all who are concerned in the currency, and the property it circulates? Their safety depends on her pursuing the course she has traced out, from which neither the reproaches of enemies, nor the entreaties of friends, should divert her. For the former I have no apprehension; and for the latter, although I entertain some fears, I trust that an answer will always be found by the able Board which administers the concerns of the Bank, in the superior claims of public duty.

The Secretary asserts, sir—and it seems to be a favorite assertion, as it is to be found in more than one place in the letter—he asserts that the Bank has violated the charter. He says, that, “instead of a Board constituted of at least seven directors, according to the charter, at which those appointed by the United States have a right to be present, many of the most important money transactions of the Bank have been, and still are, placed under the control of a committee, denominated the Exchange Committee, of which no one of the public directors has been allowed to be a member since the commencement of the present year. *This committee is not even elected by the Board, and the public directors have no voice in their appointment.* They are chosen by the President of the Bank; and the business of the institution, which ought to be decided on by the Board of Directors, is, in many instances, transacted by this committee; and no one has a right to be present at their proceedings but the President, and those whom he shall please to name as members of this committee. Thus loans are made, unknown at the time to a majority of the Board, and paper discounted which might probably be rejected at a regular meeting of the directors. The most important operations of the Bank are sometimes resolved on and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged as to conceal from the officers of the Government transactions in which the public interests are deeply involved. And this fact alone furnishes evidence too strong to be resisted, *that the concealment of certain*

		<i>Domestic bills.</i>	<i>Discounts.</i>	<i>Total.</i>
January, 1832,	-	\$16,691,129	49,602,577	66,293,707
June, -	-	22,850,769	46,712,040	69,562,809
December, -	-	16,647,507	44,924,118	61,571,625
January, 1833,	-	18,069,043	43,626,870	61,695,913
June, -	-	22,427,702	40,627,094	63,054,796
December,	-	15,672,537	38,780,567	54,453,104

Total reduction from June to December, 1832, - - 7,991,184

Total reduction from June to December, 1833, - - 8,601,692

2. The increase of two millions and a half, from January to August, 1833, was wholly in domestic bills, while the discounts were reduced.

		<i>Domestic bills.</i>	<i>Discounts.</i>
January, 1833,	-	\$18,069,043	\$43,626,870
August, 1833,	-	20,923,243	43,237,106

Increase, - - 2,854,200 389,764 diminution.

"important operations of the corporation from the officers of the Government is one of the objects which is intended to be accomplished by means of this committee. *The plain words of the charter are violated*, in order to deprive the people of the United States of "one of the principal securities which the law had provided to guard their interest, and to render more safe the public money intrusted "to the care of the Bank."

Now, sir, the Secretary cannot have examined this matter, or he would have entertained a different opinion. There is no violation whatever of the charter in giving the President authority to appoint the Committee of Exchange, or in authorizing that committee to transact the business of exchange, or even to discount, if such a power should be deemed expedient.

The Secretary appears to rely on the fourth fundamental law of the corporation, which enacts, that "not less than seven directors shall constitute a Board for the *transaction* of business, of whom the President shall always be one, except in case of sickness or necessary absence; in which case his place may be supplied by any other director whom he, by writing under his hand, shall depute for that purpose. And the director so deputed may do and transact all necessary business belonging to the office of the President of the said corporation, during the continuance of the sickness or necessary absence of the President." By *transaction* of business, the Secretary would seem to understand exclusively the *execution* of business; the carrying of a direction, order, or law, into act and effect. But this is not the restricted meaning of the word in this place, for several satisfactory reasons. 1. Such a restriction upon the execution of the various business of the Bank, as that not less than seven directors should form a quorum to do it, would render the execution of business impossible. Not a deposit could be received or paid, or the simplest operation of business performed, without the presence of such a quorum. 2. Accordingly, the charter, by the use of a different term, in a different place, shows that this is not the meaning of the words *transaction of business*. The tenth section gives to the directors for the time being "power to appoint such officers, clerks, and servants under them as shall be necessary for *executing* the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable." 3. The word, in its proper sense, includes both execution and direction. 4. The authority of the *Board*, as would naturally occur to most people, is *legislative*; and although they can also execute and perform definitively any business they please, it must depend upon the law which they prescribe to themselves, or which is prescribed for them by the charter and by-laws, what part they will perform in person, and what they will commit to others. The *quorum* is appointed for the exercise of authority as a Board—for legislation, and not for the execution of the laws or directions of the Board. The body is, by the very name of its office, *directive* and not *executive*. 5. This is clearly implied from the provision which gives to a substituted director the power to transact all the necessary business belonging to the office of Pre-

sident, during the continuance of the President's sickness or necessary absence. What is the necessary business belonging to the office of President? The charter does not declare it. Perhaps the only business which it allots to him, expressly, is that of signing notes of a certain description to give them a certain effect. Whence, then, can he get it, except from the Board of Directors, or the by-laws and regulations of the Bank? And if he gets it from the Board, they must have power to authorize and direct, and the President, by virtue thereof, must have power to execute.

Sir, the power of making by-laws and regulations for the government of the Bank has been wholly overlooked by the Secretary. The seventh section of the charter gives to the whole corporation, the stockholders, the power to "ordain, establish, and put in execution such by-laws, ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution thereof, or to the laws of the United States;" and the present situation of this power is thus: It has been settled for a century, that where a charter commits the power of making by-laws to the whole body of the corporation, the general mass of corporators, they may delegate the power to a select body, who then represent the whole body in their acts of legislation. The contrary of this is held to be the law when the power is given by charter to a select body, for they cannot delegate their power to any other body. Now, sir, the whole body of the corporation of the Bank of the United States, the stockholders, at a general meeting held on the 6th January, 1817, did delegate their power of making by-laws and regulations to the Board of Directors, after passing a few by-laws not affecting the present inquiry. The act by which this was done declares, "that the directors shall have power to make such further rules, regulations, and by-laws, as they shall deem necessary and convenient for the government of the Bank of the United States, not contrary to these ordinances, nor to the act of incorporation, nor to the laws of the United States." Consequently, the directors have, since that time, possessed and exercised, and do now possess and exercise, the legislative power of the corporation, by the gift and delegation of the stockholders; and the laws and regulations made by the Board of Directors, whether for the government of their own body, or of the business of the Bank, not being contrary to the constitution, the laws of the United States, or the by-laws made by the stockholders, are good and valid, either by virtue of their own charter authority as directors, or the authority delegated to them by the whole corporation.

Upon what principle is it, then, that a regulation of the Board authorizing the President to appoint committees, (a necessary power in every legislative body,) or that authorizing a committee to take order upon the purchase and sale of exchange, or to perform any other act of banking which the charter does not require to be done by somebody else, is denounced as a violation of the charter, and of the *plain words* of the charter? Sir, the power exercised by the Committee of Exchange is known by all who know any thing of

practical banking, as it is now conducted in our cities, to be not only usual, but almost indispensable; and, to the due management of the parent Bank, entirely so. To require a quorum of seven to be present at every such operation, occurring as they do every day, would be to say that the Bank of the United States should not give the facilities to exchanges which the interests of trade require. The question of expediency is, however, for the Board, when its legal quorum is present, to decide; and they have decided it, and the stockholders have never questioned the decision. As to the *right*, though from convenience, as well as from the regular recurrence and magnitude of the operations, the discounts of promissory notes are directed by the Board of Directors in person, there is no legal difference between discounts and exchanges, or any other branch of banking business, which makes them necessarily subject to different rules. The Board may regulate the whole as it deems best for the Bank.

But, sir, this alleged violation of the charter is connected, in the mind of the Secretary, with a design to "conceal certain important operations of the corporation from the officers of the Government." The particular operations concealed are not suggested, but the concealment is alleged as an inference from the mode of appointing and instructing the committees in violation of the charter.

There are some points of fact adverted to in the Secretary's letter, and in the argument of the honorable member from Tennessee, which it is my intention to leave to those who think that they are still worthy of additional notice. I am not of that opinion. These matters regard the particular items of expense for printing and publication by the Bank, and the old affair of the 3 per cents, both as to the suspended payment from July to October, and the contract by the Bank with certain holders of that stock. If, after the volumes printed by the order of this House at the last session of Congress, upon these and other kindred questions, something more is required to be said, I am sure it may be said more profitably by others than by myself. So, also, sir, as to the discovery which the honorable member from Tennessee thinks he has made, of a contradiction between the amount of printing expenses of the Bank in 1831, returned by the Bank to the Senate under a resolution of that body, and the amount for the same year stated in the pamphlet which he is pleased to term the manifesto of the Bank—the former being, as I understand, the sum of \$9,775, and the latter the sum of \$21,708 53. That discovery may not prove to be as important as it is supposed to be, if gentlemen will advert to the fact that the call of the Senate embraces only the expenses paid by the Bank for *printing* and to *editors*; and the expenses in the pamphlet are the whole amount paid by the Bank for publications of every kind, by whomever printed, and not merely the portion paid by the Bank to printers employed by itself, and to editors of newspapers.

These, sir, are minor points; but the question of concealment involves great considerations. It would appear that the charge implies a general concealment, from the omission to appoint any one of the

Government directors upon the Committee of Exchange; and particular concealment, from giving to the Committee on the Offices a power to modify the resolutions of the Board for reducing the business of the institution as they should deem expedient, and refusing to order them to make a report to the Board; and, also, from refusing to the Government directors a copy of the resolution indicating the course of policy proper for the Bank to pursue under present circumstances, and which the Government directors thought should be transmitted to the Secretary of the Treasury. In regard to the Committee on the Offices, I find it difficult to comprehend that branch of the alleged concealment, as by their letter of the 22d April, 1833, to the President, it appears that one of the Government directors was at that time a member of that committee. Possibly, however, there may have been a change, and I shall so consider it.

Sir, these questions are of great importance to all banks, and to the Bank of the United States in particular. The *right* of the Government directors to the station they aspire to, or to demand that the Board should make the orders which the Board have refused to make, has not the least foundation. Their right to be members of any committee has no more legal support, than the right of a member of this House to be upon a committee appointed by this House. It depends, in this House, upon the good pleasure of the House; or, what is constructively the same thing, upon the pleasure of the Speaker, chosen by the House. In the Board of Directors it depends on the pleasure of the Board, either directly or indirectly, as they make the appointment themselves, or give the power of appointment to the President of the Board. The right to require that a committee shall make a report to the Board, is the right of the Board, and not of any member of it. The right to take a copy of the minutes, for any purpose, depends on the will of the Board by whom they are made, or ordered to be made, as the charter does not contain any direction upon the subject. It would be the same in this House, if the constitution did not require a journal to be kept by each House, and to be published from time to time; though even this is subject to an exception, depending on the will of the House.

The questions of right being thus, let us examine, sir, the questions of expediency and propriety.

Heretofore, in the history of the Bank, the directors appointed by the President of the United States, have mingled in all the transactions of the Bank, mutually giving and enjoying unreserved confidence, and being in no respect whatever distinguished from the other directors. Mr. Biddle himself was a director appointed by the President, for many years, and particularly in the important years of 1829, 1830, 1831, and 1832, as the reports of the last session show; and other Government directors have, from time to time, acted upon all the important committees, including the Committee of Exchange, so as to give to the Bank the benefit of their peculiar qualifications, for it must always have been a question of qualification, and, if a director was not qualified for a particular post, it is not probable, whatever was the source of his appointment, that he would be placed in

it. But, sir, in the time of the present Government directors, a change has come upon us and upon the Bank, of a very important kind, and it is not surprising that it has affected those directors also.

It was vehemently suspected, sir, at the time of their appointment, that their notions of duty and right were peculiar; that they deemed themselves bound or entitled to use their posts for the purpose of making representations to the President of the United States, tending to excite odium against their co-directors, by impeaching their motives and acts, and thus to impair the credit of the Bank; that they deemed themselves at liberty, in the performance of this duty, or in the exercise of this right, to pursue objects which they did not care to avow, and which *they were not permitted to avow*; and, finally, sir, that, in some way, by some unexplained theory of their appointment, they had come to the opinion that they possessed *political powers* in the institution, which they were authorized to use for *political* purposes. All this, sir, was, as I have said, most vehemently suspected; and, if the suspicions were just, the propriety of placing them in posts of trust and confidence in the Bank was not so clear, particularly as, if they were so placed, it might have been difficult to persuade other gentlemen to sit beside them in the occupation of those posts. I say, sir, it might have been extremely difficult to persuade gentlemen of character, having some feelings and reputation of their own, to sit in a post of trust and confidence by the side of directors holding such notions of duty and right, and carrying them out, without avowing their objects, into measures of extreme personal annoyance, as well as of discredit to the Bank.

Sir, what was at that time, perhaps, no more than vehement suspicion, is now, and, for some time past, has been, matter of unquestionable certainty; and the certainty is derived from the best possible authority—the confession of the very party.

Sir, I beg to call the attention of the House to a part of a letter addressed by three of the Government directors to the President of the United States on the 22d of April, 1833, which is annexed to the letter of the Secretary. It is the first that has been exhibited to this House, but not the first in the correspondence of which it forms a part, and which has not been communicated. We know, even now, but in part. The three directors say:

“Without considering any portion of our remarks as falling within
“the limits of those private accounts, which, as you state, the charter
“has so carefully guarded, *since the whole relate to the action of the*
“*Board upon matters fully open, and discussed, before them, and ex-*
“*tend in no instance to the private debtor and creditor accounts of*
“*individuals*, yet we may be excused for expressing much gratifica-
“tion at your assurance that the information requested is for your
“own satisfaction, *and that you do not wish it extended beyond our*
“*personal knowledge*. We may be permitted also to add, that the
“wishes and opinions which we took the liberty of expressing in our
“former letter have been since more strongly confirmed, *and that we*
“*should not only feel more satisfaction ourselves, but be enabled to*
“*convey to you more full and correct information, were we to proceed*

"*in an investigation, whose object was avowed, and if we were strengthened by that official sanction which we suggested.*"

Then, sir, they were not altogether comfortable in their new position; and I do not wonder at it. Then their object *was not avowed*, and they were not permitted to avow it, but were compelled, by their own sense of distress, to ask for an official sanction, under which they might avow it: then, further, they were practising concealment themselves, and trying to prosecute an investigation, without avowing its object, when that object is now known to have been to inculcate the Board, and particularly the gentleman at the head of it, and, by means of the odium thus excited, to justify to public prejudice an act of deadly hatred to the Bank of which they were directors—the removal of the public deposits; and then, sir, I say, in conclusion, that there is not an honorable man in this House, or in this country, who will not respond to the sentiment, that they were treated at least as well as they deserved to be, by not being assisted in the performance of these remarkable labors. With this confession of concealment by the Government directors, to which they were coerced by the Executive, the Secretary of the Treasury arraigns the Board for concealing its operations from them. He charges the Board with concealment, in violation of their charter, and in contempt of the Government, when the head and front of their offence is this only—that they would not consent to be the dupes of concealment that was practised by others.

But, sir, this is not all. The memorial of the Government directors to this House, for the doctrines of which we are, I presume, indebted to the professional gentleman whose name is at the head, cannot be too much adverted to, in connexion with both the charge of concealment by the Board, and another charge, hereafter to be noticed, of a graver description. It is a document that may be considered as a sort of small *martyrology*—a history of the sufferings incident to disappointed efforts and mortified pretensions; and it contains, as is natural, a confession of the faith by which the sufferers have been sustained at the stake where they have placed themselves. I beg permission to exhibit it to the House.—“It has pleased the majority of the Board of Directors,” says the memorial, “in the document to which we refer, in order, we suppose, in some degree to extenuate their conduct, in systematically nullifying the representatives of the Government and the People,” [doubtless meaning themselves,] “to deny that the public directors are seated at the Board in any other relation than themselves; to deny the existence of any difference in the official character and duty of themselves and us. This extraordinary denial, in the face of all experience of the familiar history of the country, and of palpable reasoning, must rather be ascribed to the presumption which moneyed power is apt to inspire, than to the ignorance or wilful misrepresentation of those who make it. Nothing can be plainer than that the PUBLIC DIRECTORS WERE DEVISED AS INSTRUMENTS”—[I beg the House to advert to the felicity of the language—“*were devised as instruments.*”] “Nothing can be plainer than that the public directors

“ were devised as instruments for the attainment of public objects;
 “ that their being insisted upon in the charter itself was in obedience
 “ to the will of those who elected the legislative body by which it was
 “ passed; and *that their appointment was given to the President,*
 “ with the advice and consent of the Senate of the United States,
 “ (not to the mere fiscal representative,) in order to clothe them with
 “ all the character of official representation, and *to exact from them*
 “ a discharge of all the duties, public, *political*, and patriotic, inci-
 “ dent to a trust so conferred. If we are mistaken in this, we ac-
 “ knowledge that our solicitude about the rights and morals, the
 “ practical purity and freedom of our countrymen, has misled us.
 “ But we know that we are not.”

Devised as instruments, and given to the President, to *exact* from them a discharge of all the duties, public, *political*, and patriotic, incident to a trust so conferred! The sense would not have been more complete, sir, though the alliteration would have been more perfect, if they had described their functions as extending to all duties, public, political, patriotic, and *party*, incident to a trust so conferred.

Now, sir, without at present saying whether this theory was true, the other directors had a right to a counteracting theory for themselves; and if it is true that the Government directors were devised as instruments, and that they are, by their creation, *political* directors, the other directors, who have not been so devised, are entitled to consider themselves as anti-political directors, and not bound to assist the political operations of the other branch, but rather, by the momentum of their greater numbers, to keep them from moving the Bank out of place. But, sir, the heads of the memorialists have been made dizzy by their elevation. Their theory has no foundation in reason, or in the charter. I deny that they were *devised* as instruments, whatever they may have made of themselves. There is not a shadow of difference between the rights and duties, the powers, or the obligations, of any of the directors: they are all directors, neither more nor less, and owing the same duties to all the interests confided to them. The directors appointed by the President owe a duty to the nation, and so do the others, and, in my poor judgment, they have performed it. The directors elected by the stockholders owe a duty to the Bank, and so do the directors appointed by the President; but they have neither performed nor acknowledged it. They are not placed there to make inquiries for the President. The President has no authority to direct inquiries to be made by them. This is a question of charter power, of power over a corporation, all of whose privileges are rights of property. The charter gives to the President no such right. It expressly gives to the Secretary of the Treasury a right of limited inquiry, by investigating such general accounts, in the books of the Bank, as relate to the statements which the Bank is bound to furnish to the Treasury Department, but no further. Congress have the power to inspect the books of the Bank, and the proceedings of the corporation generally. These powers have been expressly given, and they have been so given because they would not have been derived by implication from the charter.

But here is a power to be implied greater than all, and worse than all—a power to be exercised secretly, and without avowal, *ex parte*, without notice, without opportunity of reply or explanation being given to those whom it affects, and by persons who are holding, to all appearance, the relations of amity with their co-directors, sitting on the same seats, and professing the same general objects. Sir, the Board did right not to aid them; it would have done right to resist them; and I inquire of the members of this House, and ask them to follow out their honorable feelings into the reply—would they consent to sit in committee by the side of men who professed principles like these, and submitted themselves to the direction of another as to the manner in which they should carry them into execution? This question concerns all banks, and this Bank most intimately. A hue and cry is raised against the directors of this Bank, because the Bank will not tell the Government directors, *that they may tell the Secretary*, precisely how they mean to wind up, if they do mean it; and here is a new theory of banking, to place by the side of the new theory of political power—that all which the Bank intends to do for its own defence, is to be told to an enemy, that, if he thinks fit, he may defeat the measure; that it is not sufficient for him to continue to know the precise condition of the Bank, in point of fact, as it actually is, and as he must perceive it to be by the weekly statements, but that he must also know what it is going to be by the operation of measures of defence, that if it is in his power, and he also thinks fit, he may frustrate the purpose. The private directors of this Bank have upon them the responsibility of taking care of all the stockholders—the nation, for its seven millions, included. If others forget this duty, they will not. This House, I hope, will not; nor will they join in censuring these faithful men for refusing, under the challenge of political power, to give up the direction of the Bank, by allowing to any department an inquisition into their concerns, which the charter does not warrant.

Mr. Speaker, it is in connexion with this asserted right of inquiry into the affairs of the Bank, that the contracts, made by the Secretary with the new deposite Banks, become an object of the deepest interest. The 15th fundamental law of the Bank charter enables the Secretary to require of the Bank a weekly statement of the capital stock of the corporation, debts due to the same, moneys deposited therein, notes in circulation, and the specie in hand; and gives him a right to inspect the general accounts relating to it in the books of the Bank, but not the right of inspecting the *account of any private individual*. This ought to have been sufficient for the Secretary, as, in the judgment of Congress, it was sufficient for the safe-keeping of the public moneys. It was enough for safety, which Congress wanted, but not enough for interference and control of the Bank, which Congress did not want. The contracts which the Secretary has made with the deposite banks hold a very different language, as may be seen by that with the Girard Bank. The Bank is bound, not only to make weekly returns of its entire condition, and to submit its books and *transactions* to a critical examination by the Secretary, or an agent duly authorized by him, but it is expressly provided that

this examination may extend to *all the books and accounts*, to the cash on hand, and to *all the acts and concerns* of the Bank, except the *current accounts* of individuals. Sir, I am happy to learn that the stockholders of the Bank of Virginia have disavowed the act of their directors, in giving this power to the Secretary. It is a fearful power, and, with the Treasury interpretation of *current accounts*, (which is not the language of the charter, but *accounts* generally of any private individual,) we may see the extent of control, which, with the aid of the deposits, this clause of the contract will give. It is an authority for universal supervision of all the operations of the Bank, including its discounts, and for granting and withholding accommodations at the pleasure of the Secretary. I humbly submit to all who feel any kindred sympathies with honorable men, whether, in the absence of the mandate of a judicial decision, in a case in which such a decision has been avoided by the power that has a right to invoke it, whether this is a fit occasion to justify the removal of the deposits for violation of charter, because the directors have not adopted or assisted such principles, interpretations, and aims as these?

The affair of the French bill I shall briefly notice, as I pass to the remaining topic of the Secretary's answer. I will take the history of that bill, as it is given by the honorable member from Tennessee—that it was a bill bought by the Bank, refused payment by the French Government, and, upon protest, the amount was paid by the agent, for the honor of the Bank, to the foreign holder; that the money was not used by the Treasury here; and that the Bank suffered nothing but a few expenses, which the Secretary is willing to refund. I will agree that there is nothing but an *old* statute of Maryland to give damages on the protest, and that it does not include the sovereign of the country. I cannot argue the case, because the honorable member assumes all the law and all the facts, and the Secretary's letter gives us none. I must, therefore, agree to the case as he presents it. But the thing which passes my comprehension is, that a mere *claim* by the Bank—a claim without suit or other act—a claim which it is the privilege of the lowest and poorest to make upon the highest and richest in the land, without incurring either forfeiture or damage—that this should be gravely put forth as a brand of faithlessness upon the Bank, and a forfeiture of her right to the public deposits. Sir, there must be a strange perversion of mind in myself, or in the honorable Secretary, in regard to this conclusion. It would have been the occasion of infinite surprise to me, if the faculty of being surprised had not been recently so much impaired by use, that I am no longer conscious of its existence.

The last reason of the Secretary for removing the deposits is, that the Bank had employed her means with the view of obtaining political power.

I beg permission of the House to say a word concerning the humble individual who has the honor of addressing it. Had I been a director of the Bank of the United States, during the years in which it has been its misfortune not to have received the approbation of the Secretary, I should have been associated with men who are an orna-

ment to the city in which they live, and an honor to their country—men, who, from earliest youth to their present mature age, have been beloved, respected, and honored by all around them, and who are as much the standard of all the virtues, private, social, and patriotic, as the coins of your mint are the standard of your currency, and without any of the base alloy which you mingle in your coins to make them fit for the use and abuse of the world. If I had been called upon to act with such men as these, in regard to measures of any kind, and had differed from them in my judgment, I should have deemed it almost an act of treason against the authority of superior intelligence, or of arrogance, exposing myself to reprehension or contempt. I should have followed them fearlessly wherever they led, and with unshaken confidence that they could not lead me where either wisdom or virtue would be exposed to reproach. But, sir, I had not this honor. I was not a director of the Bank in 1829, nor in 1830, nor in 1831; and, though chosen a director in 1832, I left Philadelphia in January, to pass my winter here, and met the Board but once after my return, to show respect to the Committee of Inquiry appointed by this House. Of the measures now to be adverted to I was not informed, except as the public and this House have been informed. I can speak of them, therefore, without the influence arising from either participation or privacy. As to my professional relations to the Bank, I am proud to belong to a profession which has many distinguished members in both Houses of this Congress—a profession which the confidence and affection of this people have raised, in more than one instance, to the highest office in their gift. I will not degrade this honorable profession! I will not degrade my own rank in it, however humble, by condescending to inquire what extent of compensation would induce an honorable man to sell his conscience, and his principles, as slaves, to his client!

Sir, the great accusation against the Bank is, that she has endeavored to obtain political power, and interfered with the election of the President of the United States. Grant the design of the Bank, sir; and what then? It has not succeeded. The letter of the Secretary is an argument to show that it has not succeeded, and that the question of re-charter is settled against the Bank by the voice of the People at the last election. The election of the President—the appointment of the Secretary—the elections for this House—were all completed before the deposits were removed; and these are held up to show that the design imputed to the Bank has failed and fallen to the ground. Then I ask, sir, what is the character of that act which has removed the deposits? Is it preventive, or is it vindictive? It is vindictive, sir. It is punishment directed against the Bank for an imputed design that has wholly failed in its execution, and the victim of the infliction is not the Bank, but the country. If it is a matter of grave belief that the purpose of the Bank was that which is imputed, and that the elections have given out the answer of the People to it, what more triumphant refutation can be adduced of the reasons that find either a ground of apprehension, or a motive of punishment, in acts which have thus failed of effect? If the premises be-

long to the case, the true conclusion is, that the people are in no danger from attempts to gain political power by the devices of the Bank, and that she may go on to the conclusion of her charter, performing her constitutional duties to the country, as she has always done, with fidelity and success; leaving the question of renewing the charter to settle the extent of her punishment.

But, sir, I deny the charge. I say the design was not entertained, and that not a particle of evidence has been produced to infer the contrary. The Board have printed and published, and have assisted in printing and publishing, "for the purpose of communicating to the people information in regard to the nature and operations of the Bank, and to remove unfounded prejudices, or repel injurious calumnies on the institution intrusted to their care." This is the declared purpose of all they have done, and they stand upon the sacred principle of self-defence in asserting their right to do it. That there was nothing in the veto message to justify the circulation of the review which the gentleman from Tennessee has noticed, is more than I admit; and when the gentleman shall assert, upon his own authority, that the Board have given currency to a scurrilous pamphlet against any one, he will find me ready either to deny the fact, or to admit its impropriety. The constitution secures to every person, natural and political, the right of printing and publishing, being responsible for the abuse of it. It prohibits Congress from passing any law abridging the freedom of the press. If the charter had inserted a provision to restrain the Board of Directors from printing or publishing, it would have been null and void. An interpretation of the charter to restrain it is equally so. They have the universal right, subject to the constitutional corrective through the judicial tribunals of the country; but to condemn, and then to try them—to punish, and then to hear—belongs not to the tribunals of this earth, nor to the constitution of this country.

Sir, the change of the deposits is an extraordinary mode of preventing their application to the purposes of political power. Before their removal, they were in a Bank not possessing political power, nor capable of using it. They are now wielded by those who possess it, and who are more or less than men if they do not wish to keep it. Then they were in one Bank, under one direction; now they will be in fifty. Then they were in a Bank which political power could not lay open to its inquiries and control; now they are in Banks that have given a stipulation for submitting all their acts and concerns to review. Then, if these deposits sustained any action at all, it was in the safest form for the People—action against power in office; now its action is in support of that power, and tends to the augmentation of what is already great enough.

I say, in conclusion upon this point, if these publications are deemed by this House to have been unlawful, return the deposits till the Bank has been heard. Go to the *scire facias*—give to the Bank that trial by jury which is secured by its charter, and is the birthright of all. Ask the unspotted and unsuspected tribunals of the country for their instruction. Arraign the Bank upon the ground either of

sedition, or grasping at political power. There was ample time for it, and still is; and there is a great precedent for it, which I commend to the consideration of this House.

Sir, in the worst days of one of the worst princes of England, (I mean Charles the 2d,) the love of absolute rule induced him to make an attempt upon the liberties of the city of London, whose charter he desired to overthrow. He complained that the Common Council had taxed him with a delay of justice, and had possessed the people with an ill opinion of him; and, by means of his ministers of the law, and by infamously packing the bench, having promoted one judge, who was not satisfied on the point, and turned out another who was not clear, he succeeded in obtaining a judgment, under which the liberties of that ancient city were seized by the crown. But, when the revolution expelled his successor, and the principles of the British constitution came in with the House of Orange, an early statute of William and Mary reversed the judgment as illegal and arbitrary; and from that time it has been the opprobrium of the bench, and the scorn of the profession.

The account of it which is given by Burnet, is thus:—"The court, finding that the city of London could not be wrought on to surrender their charter, resolved to have it condemned by a judgment in the King's Bench. Jones had died in May; so now Pollexfen and Treby were chiefly relied on by the city in this matter. Sawyer was the Attorney General, a dull, hot man, and forward to serve all the designs of the court. He undertook, by the advice of Sanders, a learned, but very immoral man, to overthrow the charter. The two points upon which they rested the cause were, that the Common Council had petitioned the King upon a prorogation of Parliament, that it might meet on the day to which it was prorogued, and had taxed the prorogation as that which had occasioned a delay of justice: this was construed to be the raising of sedition, and the possessing the people with an ill opinion of the King."—"When the matter was brought near judgment, Sanders, who had laid the whole thing, was made Chief Justice; Pemberton, who was not satisfied on the point, being removed to the Common Pleas, on North's advancement. Dolbin, a judge of the King's Bench, was found not to be clear; *so he was turned out*, and Wilkins came in his room. When sentence was to be given, Sanders was struck with an apoplexy, upon which great reflections were made; but he sent his judgment in writing, and died a few days after." As the only precedent which the books present to us of forfeiture of charter for sedition, or an interference with political power, it is not without instruction.

Sir, these reasons of the Secretary being one and all insufficient to justify the removal of the deposits, the question of remedy is the only one that remains. The state of the country requires the return; but the question of return has nothing to do with the renewal of the charter. If renewal were the object, I should say, do not put them back, leave them as they are; make no provision for the future, and see, at the end of two years, to what relief the people will fly. But,

sir, let us save the country from this unnecessary suffering. Return them, and the mists will clear off from the horizon, and the face of nature smile as it did before. Return them, and make some provision for the day when the capital of this Bank is to be withdrawn from the country, if it is to be withdrawn. Provide some control, some regulation of your currency. The time is still sufficient for it, and the country requires it. If, indeed, this Bank is not to be continued, nor another to be supplied, nor a control devised to prevent the State Banks from shooting out of their orbits, and bringing on confusion and ruin, then, I confess that I see no benefit in putting off the evil for two years longer. The storm must come, in which every one must seize such plank of safety as he may out of the common wreck; and it is not the part, either of true courage or of provident caution, to wish it deferred for a little time longer.

Sir, I have done. I have now closed my remarks upon the question of the public deposits, second in importance to none that has occurred in the course of the present administration, whether we regard its relations to the public faith, to the currency, or to the equipoise of the different departments of our Government. It is with unfeigned satisfaction that I have raised my feeble voice in behalf of the amendment offered by the gentleman from South Carolina, whose enlightened labors in this great cause, through a course of years, have inseparably connected his name with those principles upon which the security, the value, and the enjoyment of property depend; and it will be sufficient reward for me if I shall be thought not to have impaired the effect of his efforts, nor to have retarded the progress of those principles to their ultimate establishment. For myself, I claim the advantage of saying, that, as I have not consciously uttered a sentiment in the spirit of mere party politics, so I trust that my answers to the Secretary will not be encountered in that spirit. If the great and permanent interests of the country should be above the influence of party, so should be the discussions which involve them. It ought not to be, it cannot be, that such questions shall be decided in this House as party questions. The question of the Bank is one of public faith; that of the currency is a question of national prosperity; that of the constitutional control of the Treasury is a question of national existence. It is impossible that such momentous interests shall be tried and determined by those rules and standards which, in things indifferent in themselves, parties usually resort to. They concern our country at home and abroad, now, and to all future time; they concern the cause of freedom every where; and, if they shall be settled under the influence of any considerations but justice and patriotism—sacred justice and enlightened patriotism—the dejected friends of freedom dispersed throughout the earth, the patriots of this land, and the patriots of all lands, must finally surrender their extinguished hopes to the bitter conviction that the SPIRIT OF PARTY is a more deadly foe to free institutions than the SPIRIT OF DESPOTISM.

SPEECH OF MR. M'DUFFIE,

ON THE SUBJECT OF THE

REMOVAL OF THE DEPOSITES.

DECEMBER 19, 1833.

THE PUBLIC DEPOSITES.

The amendment proposed by Mr. McDUFFIE to the proposition of Mr. POLK, to refer the report of the Secretary of the Treasury to the Committee of Ways and Means, being under consideration, Mr. McDUFFIE said—

MR. SPEAKER—I shall now proceed, Sir, to state the reasons which have induced me to submit the resolution just read. In strict justice, I believe that it is due to the Bank of the United States, that the public money taken from its vaults should be restored; but as this would now add greatly to the embarrassment and distress of the community, I have confined my resolution to the revenue hereafter to be collected, leaving it to the justice of Congress to indemnify the Bank for any loss it may sustain by the violation of its chartered rights. I believe that we are under the most solemn obligations to adopt this measure—obligations founded in the highest considerations of public justice, plighted faith, and political expediency.

The whole public treasure of the United States has been removed from the depository established by law, by an arbitrary and lawless exercise of Executive power. I affirm that the act has been done by the President of the United States, not only without legal authority, but I might almost say, in contempt of the authority of Congress.

We were told by the President, in his annual message—and told with great gravity—that the *Secretary of the Treasury* had deemed it expedient to remove the deposits from the Bank of the United States, and that he, (the President,) approving of the reasons of the Secretary, acquiesced in the measure. Now, Sir, I do not mean to charge the President of the United States with stating to Congress what is not the fact according to his view of the subject,—but I undertake to assert broadly, that the Secretary of the Treasury did not remove the deposits, but that to all legal and rational intents and

purposes, the removal was made by the President of the United States, *against* the opinion and will of the officer to whom the power of removal was entrusted by law. This, then, is the great legal and constitutional question which we are now to determine. *Who* is it that has removed the public treasure from the depository established by law, and by what authority has the act been done?

I maintain that the President of the United States is the author of this whole proceeding, and shall proceed to show that, notwithstanding the devices by which this assumption of power is covered over and disguised, *he* has “assumed the responsibility,” or more properly speaking, usurped the power, of removing the deposits. I presume that, on this point at least, the word of the President will be regarded by all parties as conclusive evidence of his agency in the business. Fortunately the author and the reasons of this measure are not left to conjecture, but are openly disclosed to the world in a printed manifesto; and from what has occurred in the other branch of the legislature, we are now authorised to consider that manifesto as an official document, containing the reasons on which the President of the United States—not the *Secretary of the Treasury*—ordered the removal of the public deposits. From that document I propose to read a few sentences, which are perfectly conclusive of the agency of the President in this measure. After stating the various reasons which rendered it, in his opinion, expedient to remove the deposits, the President proceeds to add, “From all these considerations the *President* thinks that the State banks ought to be immediately employed in the collection and disbursement of the public revenue, and the funds now in the Bank of the United States drawn out with all convenient despatch.” Then, towards the conclusion of the document, he says, “The President again repeats that he begs his cabinet to consider the proposed measure as *his own*,”

rewme of Ynglande, and the crown, with all the membres, and the appurtenances; also I that m descendit by right line of the blode, coming from the Gude King Henry therde, and throge that right that God of his grace hath sent me, with helpe of Kyn, and of my friendes to recover it; the which rewme was in poynt to be ondone by defaut of governance, and ondoynge of the Gude laws."

Here, sir, is the title of Henry the IV. to the crown of England, and there is the title of the President to the power of removing the deposits. I will not undertake to decide which is the more perspicuous document, but will leave it to be decided by those who have more skill in such comparisons than I have.

Nor is this a mere matter of criticism. I am always disposed to look with respect even upon unfounded pretensions to power, which are clearly and distinctly set forth. But I confess that my alarm is greatly increased, when power is usurped under such glosses and disguises as we find in the manifesto of the President. On reading some parts of this document, one would suppose that no man in the world could have more deference for the opinion of the Secretary of the Treasury, or would be more unwilling to interfere in the slightest degree with the discharge of his official duties than the President himself. He says to the Secretary in substance, this, sir, is a duty which the law has assigned to you; it is your business, and not mine; I have a great repugnance to the exercise of doubtful powers, and still greater to interfering with you in the exercise of a power expressly conferred upon you by the law. Yet in the very moment of making these self denying declarations, and acknowledging the right of the Secretary to decide for himself without the least constraint, he unceremoniously dismisses the Secretary from office because he *will not sign* the order for removing the deposits, and puts into his place a man who *will*. Here, sir, is a practical interpretation of the President's understanding of the right of a high officer to the free exercise of his judgment, in the performance of the duties specifically assigned to him by law. I never have read or heard of any thing that bore any resemblance to the tissue of incoherent and contradictory declarations, contained in this executive manifesto, except in the instance of a judicial decision made by a Dutch judge in some of the interior towns of New York—Kinderhook, perhaps; of which I was informed by a traveller. It was a case involving the right of the free expression of opinion

on political subjects, and it was strongly argued at the bar that this right was secured by the Constitution, and entitled the defendant to a verdict. The judge, who had determined to decide against the defendant, replied to this argument with a most gracious and complacent air: "O yaw! every man has a right, by de law, to dink for himself in dis rebublican country, profided he dinks mid de cort." And in like manner, the Secretary of the Treasury had a clear right, by the law, to think and decide for himself, provided he would only be so pliable as to think with the President. But not being possessed of that convenient pliability, he was dismissed from office for not violating his conscience and betraying his trust.

Sir, it is too apparent to be disguised by these bungling devices, that the President of the United States is the officer by whose sole and despotic will the deposits have been removed from the Bank of the United States. He alone is the responsible agent in this transaction. It is an utter perversion of language to say that the Secretary of the Treasury has removed the deposits. It is absolutely false; (I speak in a legal sense,) he had no more agency, moral or legal, than the iron pen by which the order of removal was written. The Secretary of the Treasury remove the deposits! He refused to remove them! and has paid the penalty of his honest independence, by being discarded from office.

Is this to be gotten over and evaded by producing an order signed by the present Secretary of the Treasury, and saying "here is proof conclusive that the removal of the deposits is not the act of the President." Shall we close our eyes to the true origin and character of this order? Shall we not look back beyond it to the circumstances under which it was given, and the real agency by which it was produced.

In what manner, and for what purpose, was the present Secretary of the Treasury brought into office! Sir, he came into office through a breach in the Constitution; and his very appointment was the means of violating the law and the public faith. He was brought into his present station to be the instrument of Executive usurpation. And yet, Sir, because his name is attached to the order, we are gravely told that the Secretary of the Treasury removed the deposits! It is an insult to the common sense of the nation to say so. This officer was made to do it by the President, who had no more right to remove the public treasure than I have.

Sir, shall we be told that the President, from

the bare fact of his appointing men to office, has a right to assume to himself all the powers conferred upon them by law? He appoints the Federal judges. Let us suppose that these judges hold their offices by the tenure of Executive pleasure; and that when some State prisoner should be under trial, the President should say to the presiding judge—the chief justice for example—“condemn that man,” or as the tyrant Richard said, “I wish the bastards dead.” If the chief justice should refuse to obey this Executive order, and claim the right of judging for himself, would the President be authorized to dismiss him from office? Would he have a right to tear off the ermine from his shoulders, and place it upon a mere instrument who would do the deed of blood? Why not, Sir? It would be perfectly justifiable, according to the logic by which the present usurpation is attempted to be justified.

I will now proceed, Sir, supposing the deposits to have been removed by the Secretary of the Treasury, to examine the reasons he has submitted to Congress in justification of the act. And in the first place, without stopping to weigh the reasons assigned, I affirm that however true in point of fact, they are not in the slightest degree applicable to the question of removing the deposits. They no more touch that question than if they related exclusively to the religious opinions of the bank directors. I allude to the governing reasons, not to those that are thrown in as mere make-weights and after-thoughts. The fact that the power of removing the deposits is given to the Secretary of the Treasury, and not to the President, evinces that it was the intention of Congress that the removal should be made only for reasons connected with the safety of the public treasury, or the facility of the financial operations of the Government. Since the power is thus vested in the officer charged with the administration of the finances, it would be obviously transcending his power to exercise it for reasons in no way connected with the operations of his Department. If it were shown that the bank is not a safe depository of the public treasure, that would be a conclusive reason for removing them. If the bank had failed to comply with the stipulations of the charter, in transmitting the public moneys from one point of the Union to another, when required by the Government to do so, that would be a satisfactory reason. In fact, any failure on the part of the bank to comply with its engagements to the Government, would be a reason of more or less

weight. Indeed, if it could be shown that the Treasury could make an arrangement with the State banks more favorable to the Government, than that subsisting with the bank; even that might be an adequate reason if the bank would not serve the Government on the same terms. But how stands the fact? Are the deposits alleged to be unsafe in the bank? Why, Sir, it is now admitted by all parties, even by the gentleman from New York, (Mr. CAMBRELENG,) who prophesied so dismally of coming disasters at the session before the last—and the Secretary of the Treasury himself—that the deposits were perfectly safe in that institution. Not only so; but it seems that from having been an insolvent concern, and an unsafe depository of the public funds, as the Government strenuously endeavored to show at the last session—the bank now has too much specie in its vaults! Yes, Sir, the charge now is, that this horrible monster is so unreasonably voracious of specie, as to have accumulated more than ten millions in its vaults. It is, then, a safe depository. Has it failed in any of its engagements with the Government? Has it refused to transmit the public moneys wherever required for disbursement, promptly and without charge? Sir, I speak considerably when I say that there is not a Government on the face of the earth, be the sphere of its operations large or small, which has been so well served in its financial operations, as this Government has been by the bank. Look, Sir, at the astonishing fact that in the collection and disbursement of our immense revenue for seventeen years, amounting to four hundred and forty million of dollars, not a dollar—no Sir, not a single dollar, has been lost in the operations of collecting and disbursing! Nor is this all. No creditor of the Government has had to wait one moment for his dues so far as the bank has been concerned; and moreover, when he received his money, it was money. God grant that I may be able to say so two years hence. Thus, Sir, as it regards the operations of the bank, we are “in the full tide of successful experiment.” Our currency from unsoundness and derangement, has attained a degree of purity and uniformity unequalled by that of any country in the known world of the same geographical extent. We have had to pay a mere nominal exchange on the most distant commercial operations, and the fiscal operations of the Government have been carried on without any expense at all. Thus, Sir, with a solvent bank—the most solvent I

might say in the world—a safe depository for the revenue, and a perfectly sound and uniform currency—in a word, while in the enjoyment of all that the heart could desire in these respects, what do we now witness? After two years of unremitting and unexampled persecution of the bank by the Executive Government; after an unsuccessful attempt to destroy its credit by all manner of calumnies which have recoiled upon their authors; notwithstanding the bank has fulfilled to the very letter every stipulation contained in its charter; yet have the public funds of the country, been arbitrarily removed from this safe depository where the law had placed them by the President of the United States, without a shadow of legal power, and that, Sir, for no legal offence, but for *OPINION'S* SAKE. Yes, Sir, in this land of liberty, where all men were believed to enjoy the most perfect and unrestricted freedom of opinion, and the right too to the unrestrained exercise of all the *influence* they may choose to exert in political affairs; a great institution has been assailed, its stockholders and officers disfranchised, and the property of widows and orphans trampled in the dust by the foot of a tyrant; and all this for no other crime than the free exercise of political opinion, and if you please, the free exertion of political influence. Pray, Sir, what right has the President of the United States to say that the stockholders of the bank or its officers, shall not interfere in *his* election? I believe that no portion of our fellow citizens have so studiously abstained from meddling with party politics as the officers of the bank. But supposing they had taken ever so active a part even in his election, has *he* any right to forbid it? Because a citizen has placed his capital in a bank, is he, therefore, disfranchised? Shall he not dare to open his mouth in opposition to the election of the President, without incurring the guilt and the penalty of *violated majesty*? Are we already in the reign of Tiberius? Even in his time, this would scarcely have amounted to that high crime against majesty. This reason so gravely urged by the Secretary of the Treasury, following the lead of the President, so far from having any weight with the House, is of a nature to produce the strongest indignation. What is the plain English of it? What does the President mean when he says that the bank must not interfere in his election, or attempt to acquire political power? Sir, I will tell you what he means. Does any man suppose that if the bank had consented to be an executive partisan, and do whatever the adminis-

tration ordered; if it had put out Jonathan and put in John when commanded to do so—that we should have heard any objections to its exercise of political power? The President's meaning is perfectly plain. When he says the bank agents must not interfere in elections, he means that they must not oppose his election, but become the mere creatures and tools of the administration.

This, Sir, was the attempt made at an early period of this administration; I do not say by the President, or by any person then in the Cabinet, but by those who were very near the throne. The effort was to induce the bank to discard the president of one of its branches who was confessedly competent to the discharge of all the duties of his station, on the ground of his political opinions. The bank resisted this attempt as it ought to have done, and a vindictive war has been urged against it ever since. So far as the present board is concerned, (and I believe those of most of the branches,) its members have carefully abstained from mingling, as partisans, in the political contentions of the country, because it was their interest to do so. They even made the attempt—a desperate one to be sure—to conciliate *this* administration, by scrupulously performing all their engagements with the Government, and even going beyond them. But it was not to be conciliated by such means. The plans and purposes of certain individuals near the President, had been thwarted, and the feelings of the President have been so artfully wrought upon, that the destruction of the bank has become his ruling passion, and he seems now to believe that there is no nuisance in the world that so much requires to be exterminated as the Bank of the United States.

If I were to decide upon principle, what should be the course of a National Bank, in regard to the politics of the country, I should say that it is desirable that the present, and all future banks of a similar kind, should be habitually opposed to the Executive Government. It would be an admirable balance in our system, and would tend to check the fearful tendency to Executive encroachment. We have nothing to fear from that operation. The real danger lies in an opposite direction. It is that the President should convert the bank into a mere instrument of his will, and should wield its power, which has been represented as so tremendous, in addition to the still more tremendous power which he derives from the patronage of such a Government, and that overwhelming tide of popularity

which will generally follows the man who distributes that patronage.

But, Sir, the President seems to be fully aware of the danger arising from this meretricious connexion between the banking and the Executive power of the country. In the manifesto he very properly and wisely expresses himself thus: "It is the desire of the President that the control of the bank and the currency shall, as far as possible, be entirely separated from the political power of the country." Never was there a more wise and patriotic sentiment, and the man who should act up to it would be richly entitled to be President of the United States. There, Sir, is the precept. Now for the practice. The President, it seems, is anxiously desirous that the control of the banks should be separated, as far as possible, from the political power of the country. And what has he done? He has, in effect, said that because the official agents of the Bank of the United States have dared to oppose his election, the faith of the nation shall not for a moment stand as an impediment in the way of their condign punishment. And what more has he done? He has not only punished the Bank of the United States, for opinion's sake, by removing the deposits, but he *has set up the public treasure in the political market to the highest bidder!* Yes, Sir, I sincerely believe that the President of the United States is doing that which, if not speedily arrested, will create a system of Executive control, and bank dependence, that will subvert the liberties of the country. By way of separating the bank and currency from the political power of the country, and avoiding the corruption which such a connexion must engender, we are to give to the President or his pliant instrument, the Secretary of the Treasury, (and after what has occurred he will never want such an instrument,) some twenty millions of public money to be distributed among the various local banks throughout the country according to the complexion of their political opinions. Sir, the danger of such a system admits of no exaggeration; and I speak not the language of exaggeration, when I say that, as God is my judge, I would rather trust even Gen. Jackson with 50,000 mercenary soldiers, with the military bill of the last session asking authority for using them, than to give him permanently this power of purchasing up the local banks, and through them controlling the whole community. Sir, we might resist the mercenaries, but it would be utterly impossible to resist such an insidious all-pervading power as this. With twenty

millions of public money, the President could get absolute control over some forty or fifty local banks *judiciously* selected with a view, not to the separation of the political and banking power—no, Sir, but with a view to a result precisely opposite. Every man in the least acquainted with the principles of human nature, must know that the banks selected would be, or would become, so many political partisans of those in power. Sir, we have some light thrown upon this subject by our experience already. It is scarcely two months since certain banks were selected to receive the deposits unlawfully removed from the Bank of the United States, and already have we seen two of their officers in the political arena.

A president of one of these banks in Baltimore is before the public, in the newspapers, vindicating, as in duty bound, the Secretary of the Treasury; and I understand another has pursued a similar course somewhere in Virginia. But we are assured by the President that the moment the officers of a deposit bank interfere with politics, the deposits must be removed; yet have heard nothing yet of any such movement against these banks. But I have no doubt that if they had dared to say a word *against* the President, they would before this time have received such a *hint* as was given to the late Secretary of the Treasury.

Sir, I should be much more disposed to rely on the declaration of the President concerning his anxious desire to separate the banking and executive power, were it not for the experience we have already had of the woful discrepancy between his profession and his practice. I do not attribute this to any wilful duplicity in the President. I believe when he makes professions he feels, for the moment, as he speaks. But I concur in the opinion expressed of the President, by a gentleman who lately held a distinguished place in his cabinet. I believe with him that the President "has no fixed principles; that he does not arrive at conclusions by the exercise of reason," but that "*impulses and passions have ruled.*"

What has been the difference, then, between the professions and the practices of the President? I have heard a great deal about the *principles* (I beg pardon for using a word which I believe is nearly out of the fashion) upon which General Jackson came into power. And I have a right, sir, to speak of these, with some authority, for I stood then in the midst, yes, sir, in the very brunt of the then unequal contest, waged against "*principalities and powers,*" when

the miserable sycophants--yes, sir, the miserable reptiles, who have literally crawled in their own slime to the footstool of executive favor, stood then on the side of those who still held patronage and power. What, then, were the principles upon which the present chief magistrate came into power? Why, sir, we had taken up the notion that the officers of the federal government had become a little too pragmatical in interfering with the political contests of the country, and that, as a matter of principle, they ought to be restrained from using the influence of their offices in this way. And, accordingly, the President, in his inaugural address, told the country that one of the crying sins of his predecessors had been, that they had permitted office holders to interfere with popular elections.

Now, I put it to all men who have eyes and ears to see and hear what has passed, and is passing, whether there ever was a period since the formation of the government, when *all* the officers of the executive government, from the highest to the lowest, approached so nearly to the likeness of an army of trained mercenaries, moving at the nod of their leader. Why, sir, no man can now breathe the air that surrounds the palace, who does not think precisely as the President thinks, and who will not consent to be docked or stretched until he fits the bed of Procrustes, and his political opinions are brought to the true executive dimensions. Upon this principle officers have been discarded, and offices filled; and this is the promised REFORM! Yes, sir, this process of turning out officers who are opposed to the administration, and putting in its partizans, has proceeded so far, that the very word reform has become synonymous with turning out an officer and putting in a partizan.

The rule seems to be, to turn out all who have no other merit than qualification for the office, and put in those who will most obsequiously adopt the opinions, and bow to the will of the President, or of those who control him. Sir, it is notorious, it is known to the whole world, that the places of those who have been removed from office, have been habitually filled by noisy and open-mouthed partizans of the administration, and very frequently by men who have no other merit. When, therefore, the President tells us that he is anxious to separate the control of the banks from the political power of the country, I must understand him to mean that he is anxious that the control of the banks shall be in the hands of those who will not dare to oppose his administration.

I appeal to every man who has any knowledge of the events which are passing, whether, if we decide that the local banks shall be the depositories of the public revenue, it will not become a matter of political bargaining between the executive and those banks. All of us know what is now going on. Indeed, I fear the time will never come when the election of a President will not be the all-engrossing and paramount object of the leading and active politicians of the country. Do we not all know that the great question now at the bottom of all others is, who shall fill the throne when the present incumbent shall descend from it? It is a contest for the succession, and the administration party is now notoriously organized, as completely as a party ever was organized, to insure the election of the "heir apparent." Under this view of the subject, I cannot but advert to one of the reasons assigned for the removal of the deposits, viz. the approaching expiration of the Bank charter. Now, if I am capable of reasoning at all, this is one of the very strongest reasons why the President should have abstained from depriving the bank of its chartered rights, by an arbitrary exercise of power. In little more than two years, by the limitation of its charter, the Bank will cease to have any influence or power. The principal and controlling objections urged by the President against the bank, are completely answered by this fact. If, as we are told, it is a dangerous institution, and calculated to subvert the liberties of the country, can any one suppose that it will do this in two years? What, then, is it that the bank could accomplish in this short period, which has produced such apprehensions? I will tell you, sir; it may exert an influence in the election of the next President, unfavorable to the executive favorite. Hence; sir, the importance of selecting new depositories of the public revenue, and of organizing a system of political banking. And I will venture to predict, that in two years from this time, if we do not arrest the proceeding, there will be a perfect organization of the deposit banks from Maine to Louisiana, and the political and monied power of the country will be concentrated in the same *place*, and in the same *hands*. All these banks (the result is inevitable) will be actuated by the same political spirit, governed by the same influence and wielded by one man. Not only the twenty millions of public revenue, but a hundred millions of bank capital will be thus wielded for political purposes, to the corruption of the public morals, and the subversion of the public liberty.

In every respect the President has selected the most unfortunate period for this most pernicious interference with the banking operations and credit of the country. We are told, however, that the measure was adopted to enable the Secretary of the Treasury, by timely arrangements with the State banks, to prepare a substitute for the bills of the United States Bank, and to prevent the derangement, which would otherwise take place in the currency, at the expiration of its charter. Now, it is obvious that the removal of the deposits at this time will not at all decrease the embarrassment which must take place when the Bank of the United States calls in its debts and winds up its concerns. The directors of the bank understand their duty and interest well enough to know, that the government deposits would be a part of the debt of the institution, for which they would make the same provision as for their other debts. The effect, therefore, of the removal now, was to produce all the present pecuniary distress gratuitously, and in addition to that which must take place at the expiration of the bank charter.

Nor is there any just foundation for the belief that the Secretary of the Treasury can provide any substitute for the bills of the United States Bank, that will have a general circulation and credit throughout the union. While that bank exists, as a check upon the excessive issues of the local banks, their paper will be good in their respective spheres of circulation. To give them a credit and circulation beyond this is what the Secretary of the Treasury never can accomplish. It is certain that the arrangements which he has made with the new deposit banks effect no such object. Have these banks stipulated reciprocally, to receive the bills of each other all over the Union, in payment of the government dues? No such promise is made, sir. On the contrary they stipulate to receive in deposit from the government only such bills of the banks in their vicinity as are in good credit, and usually received by them in the transactions of commerce.

Would a note of the deposit bank at Norfolk be received from the government debtors in Charleston? Why, sir, if you were to go with a note of the Metropolis Bank to Richmond, you could not make it available, at par, to pay a debt to the government.

Such are the evils to which the community is already exposed, and if the Bank of the United States were destroyed, we should soon have all the blessings of a depreciated currency, broken

banks and a rate of exchange averaging from five to ten per cent, operating as a tax to that extent upon all the distant operations of commerce, for the benefit of money changers. Neither is it true, sir, that the removal of the deposits to the local banks has strengthened their credit, and enabled them to make a corresponding enlargement of their accommodations to the community. Indeed, it may be well doubted, whether the credit even of the deposit banks has not been impaired by this proceeding. There is a rumor that one of the deposit banks has requested the Secretary of the Treasury to restore the deposits to the United States Bank. I will not vouch for the fact, but it so well corresponds with what I believe to be the true interest of the deposit banks, that I am the more inclined to give it credit. I am well assured, that for the last ten years there has been nothing like the present pecuniary embarrassment; and if the Bank of the United States were to do what it has a right to do, and what, I believe, prudence requires it to do—curtail its discounts in proportion to the amount of the deposits removed from it, it is impossible to estimate the extent of the pressure upon the State banks, or to foresee the consequences.

While on this branch of the subject, I will notice another of the arguments of the Secretary of the Treasury. He says, in the profoundness of his financial knowledge, that one object he had in view in removing the deposits at this time, was to save the community from the injurious effects which would otherwise result from the depreciation of the notes of the Bank of the United States, at the expiration of its charter! Now, Sir, can any thing surpass the extravagance of this notion, and is it not amazing that such wretched absurdities should be gravely presented to Congress? Here, Sir, is a bank not only solvent by the admission of the Secretary, but having in its vaults ten millions of specie, and a capacity of realizing in sixty days a sufficient fund to redeem its whole circulation; and yet we are told that as the day approaches when these notes will be certainly redeemed by specie if demanded, they will depreciate in value, to the great loss of the holders? Why, Sir, a common farmer would ridicule the nonsense of the man who should tell him that a note held by him on his wealthy neighbor, and which would be certainly paid when due, would become less valuable at the moment of its payment, than it was when it had two years to run.

Who, Sir, can really believe that the notes of

the bank will depreciate to the extent of one fourth of one per cent? And yet, this miserable pretext is thrown in to palliate this pernicious and ruinous measure, which must greatly depreciate the value of every species of property throughout the country.

I will now proceed to consider the only substantial ground assigned by the Secretary for the removal of the deposits. It is a ground which, if it were true in point of fact, would be entitled to the consideration of the House. It is alleged that the unusual and unnecessary curtailment of the Bank of the United States from the 1st of August till the 1st of October, had produced such extensive embarrassment in the commercial community, as to render it absolutely necessary for him to act so promptly in the business, that he could not even wait until Congress should again be in session. If this were true—if it can be shewn that the bank has pursued an unusual and unjustifiable course in curtailing its discounts to oppress the community, this would certainly be a reason of considerable weight, justifying the course pursued by the Secretary of the Treasury.

But what are the facts? We are told that from the first of August, to the 1st of October, the bank reduced its loans to the enormous amount of between six and seven millions of dollars, whereas, in truth, the bank in that period, reduced its discounts only *one million ten thousand dollars!* I repeat, Sir, that the *discounts* of the bank—I speak technically—were reduced only to this extent; and the whole amount of the reductions in all the operations of the bank, including the domestic bills purchased, (which are not loans, (was little more than four millions of dollars, and yet we have been officially informed by the Secretary that the reductions of the bank, or to use his peculiar language, its "*collections from the community,*" have amounted in two months, to upwards of six millions of dollars. It is worth while, Sir, to look a little more minutely into the process by which the Secretary reaches this financial result. The sum of \$6,334,000 set down as the precise amount of the curtailment is made up by adding to the discounts proper and domestic bills of exchange purchased, the increase of the public deposits amounting to upwards of two millions. Now, Sir, whether we consider the Secretary as using the technical language of banking or the language of common sense, I cannot but regard this as a gross attempt to impose upon the community. What

does it amount to? That the increase of the public deposits is equivalent to a reduction of the discounts of the bank. In other words, the bank is condemned for not extending its discounts by lending out the Government deposits, when the Government was notoriously making arrangements to remove these deposits! Yes, Sir, the bank that has been denounced for extending its discounts at a period of great commercial embarrassment—the bank that had on that very ground been charged with using its funds to control the elections—that very bank is now denounced from the same quarter, because when the public deposits were about to be removed by a lawless exercise of power, it did not extend its discounts upon the faith of those deposits! Can any thing be more characteristic of the capricious despotism exercised over the bank? The directors of the bank would have deserved to be *cashiered*, if they had not provided for the approaching storm, by preparing to deliver up the public deposits instead of lending them out under the existing circumstances.

The Secretary of the Treasury goes on to give a most dismal account of the public distress produced by this unreasonable conduct of the bank, alleging that the removal of the deposits became an imperious duty as a means of arresting it. I grant, Sir, that if the domestic bills purchased by the bank are fairly to be regarded as a part of its loans, the curtailment from August to October, amounted in the aggregate to a little more than four millions. But the exchange business cannot with any propriety be so regarded. It does not consist of loans, but as the term imports, it is the means of transferring funds from one place to another. When a northern merchant or manufacturer purchases cotton at the south, he sells a bill to the bank payable at New York in ninety days, and by the time it falls due the cotton is there and sold to meet it. The object of this transaction is to save the risk and trouble of transmitting money from the north to purchase the cotton. The bill is paid off in full at its maturity, as a matter of course, and upon no commercial principle could it be regarded as analogous to demanding the payment of a discounted note. But even if they were so regarded, the whole amount of the curtailment would be only four millions, instead of six, as the Secretary states. That is to say the Government had evinced a determination to deprive the bank of eight millions of the capital

upon which its discounts had been based, and the bank to prepare for this contingency had reduced its discounts four millions of dollars, about one half of the extent to which its means were about to be diminished. But the bank had not only been thus curtailed in its banking capital, but it has been subjected, in common with the State banks, to all the panic and pressure produced by this rash and lawless act of the Government. Its reductions, therefore, so far from being excessive, are such as common prudence rendered indispensable to its safety, and are less than the act of the Government would seem to require. But a further charge is brought against the bank by the Secretary. It is that it has adopted the heartless and monstrous policy of accumulating specie in its vaults to prepare itself for these hostile movements of the Government! It seems that between the 1st of August and the 1st of October, its specie had increased \$639,000, and the Secretary "believes" it was drawn from the State Banks. And what proof does he adduce of this fact? Why, Sir, strange as it may appear, that the Bank of the United States had permitted the balances due to it by the State banks to increase from \$368,000 to \$2,268,000 during the two months in which this operation is alleged to have taken place! Such, Sir, are the proofs that the Bank of the United States has endeavored to drain the State banks of their specie.

But even if the bank had curtailed its discounts to the extent alleged, and that curtailment had produced all the suffering experienced, the Executive Government, and not the bank, is responsible to the country for the calamity. I never have read a more unfair and jesuitical argument than the one used by the Secretary to throw the odium of his own conduct on the bank? It is well worth perusal.

"The capacities of the bank, therefore, at this time, to afford facilities to commerce, was not only equal, but greatly superior to what it had been for some time before; and the nature of the inquiry made of the State banks, confined as it was to the four principal commercial cities, showed that the immediate withdrawal of the entire deposits from that bank, so as to distress it, was not contemplated. And if any apprehensions to the contrary were felt by the bank, an inquiry at this Department, would no doubt have been promptly and satisfactorily answered. (I wonder who would have answered it.) The Secretary proceeds: "And certainly it was the duty of the bank, before it adopted a course op-

pressive to the whole country, to be sure of the ground on which it acted. It can never be justified for inflicting a public injury, (here is a nice question of casuistry,) by alleging mistaken opinions of its own, when the means of obtaining information absolutely certain, were so obviously within its reach. The change was *always* designed to be gradual."

Now, Sir, did the Secretary suppose when he made these assertions, that the manifesto of the President was entirely forgotten? Did not the President publish his decree in September, that the deposits should be *all* removed on the 1st of October, and sooner if practicable? Yet in the very face of this declaration of the President, we are told that it was always designed to remove the deposits gradually, and that the bank ought to have ascertained this by asking the Secretary of the Treasury. Sir, who *was* the Secretary of the Treasury? Was it not Mr. Duane; and pray what information could he have given if the bank had applied? Subsequent events have shown that he was quite in the dark on the subject. The whole spirit of the proceedings of the Government, made it the duty of the bank to consider the removal of the deposits as a measure decided upon and prepared for all the consequences of so dangerous and hostile a movement. Yet when the administration has brought this great calamity upon the country without the shadow of a cause, and the denunciations of the community begin to burst forth in all quarters, in a voice of thunder, why, forsooth the Secretary of the Treasury exclaims—"Thou canst not say *I* did it." It was the bank, that monster of corruption, that heartless tyrant, that has produced all this suffering, without necessity, and purely to gratify its vindictive feelings." No, Sir. It is in vain that the administration, after wantonly producing this great calamity, by an act of injustice and tyranny, attempts to throw the responsibility and the odium upon the persecuted victim of its injustice.

I will now proceed to inquire whether the specific charges brought against the bank, and which have been made the grounds of removing the deposits, have any foundation in fact. It is alleged that the bank has violated its charter, in delegating certain Executive functions to what is called the exchange committee; whereas one of the fundamental articles of that charter declares "that not less than seven directors shall constitute a board to do business."

Now, if it were true that the charter has been violated, the President might have ascertained by

consulting that charter, that it was his duty to direct a *scire facias* to be issued against the bank in order to have this question decided judicially by the federal court, instead of condemning and punishing the institution in this summary manner without a trial. But it did not suit the temper of the President or the purpose of his advisers to adopt a legal course. Indeed, Sir, I much question whether a respectable lawyer could be found in the United States, who would hazard his reputation by standing up before the court upon such an issue.

In providing that not less than seven directors should constitute a board, the charter meant nothing more than that the legislative authority of the bank—the power of prescribing the rules and regulations for its general government, should not be exercised by less than seven directors. The commitment of certain executive duties to subordinate committees, is no violation of this article, provided these committees are appointed with the approbation of the board, and in conformity with the rules prescribed by it. Every person acquainted with the details of banking, knows that a large portion of the business of all banks is necessarily done by its officers, without the presence of the directors, though by their authority. If all the duties of a president of a bank, were required to be performed in the presence, and by the direction of the whole board, it would be impossible to carry on the business of banking. It would be like forbidding the President of the United States to perform any of his appropriate duties, without the presence and concurrence of the members of the legislative body—a very inconvenient incumbrance, Sir, to which I do not think the President would readily submit.

A great effort has been made to create the impression, that there is something extraordinary and unprecedented in the operations of the exchange committee. It is treated as a dangerous and recent innovation. Now, as early as the year 1821, when Mr. Cheves was at the head of the bank, this very authority to purchase bills of exchange, was delegated to the president and cashier alone.

But it is alleged that this arrangement is an invention designed for the purpose of excluding the Government directors, not only from a due participation in the operations of the bank, but from a knowledge of them. Now, Sir, the absurdity of this suspicion will be seen at once by looking into the machinery and details of this system, and by ascertaining the circumstances un-

der which the power delegated to the Exchange Committee is exercised. The President and his Secretary seem to regard it as an independent power, exercised without any effective responsibility to the directors; whereas the proceedings of this Exchange Committee are regularly entered on the books of the bank, which are submitted to the board of directors at every regular meeting, and as only a few days intervene between these meetings, the proceedings of the Exchange Committee are constantly open to the inspection and review of the Government directors. Indeed, it may be almost said that the proceedings of the Exchange Committee are carried on under the eye of the board, so speedily is every act laid open to its inspection. No concealment from the Government directors was possible under these circumstances, when it is notorious that the books of the bank are always open to their inspection, if they thought proper to inspect them.

Another charge brought against the bank which I was surprised to see, is the old story of the three per cents again! This dish, it seems, we are to have cooked and served up in all the various modes of culinary preparation, so as to be adapted to every palate. This charge was brought forward at the last session, and referred to the Committee of Ways and Means; who reported that the arrangement made by the bank with the holders of the three per cent. stock, so far from delaying, actually hastened its payment. Why was that arrangement so vehemently denounced? I will briefly explain it. The Government had determined to pay off the three per cents. in October, 1831, at a period of great pecuniary pressure upon the commercial community, owing to the large importations of that year. The bank took that liberal and comprehensive view of the effect which this operation would produce upon the credit of the country, which it would have been well if the Government had taken, and stipulated with the holders of these three per cents. that the certificates should be delivered up to the bank, and the amount bearing a specified interest, entered to the credit of the holders on the books of that institution. By this arrangement the Government ceased to be responsible for the stock, and ceased to pay interest on it sooner than if the arrangement had not been made. How, then, were the views of the Government thwarted? By the relief which the bank thus extended to the community at a moment of great pressure? Without any loss to the Government, or any de-

lay in the redemption of the public debt, the bank was by this means enabled to avoid curtailing some six millions of its accommodations until the crisis of commercial embarrassment passed away. The arrangement, Sir, was essentially beneficial to all parties and injurious to none, and I am utterly at a loss to conceive why the ghostly form of these extinguished three per cents. is now conjured up in the array of charges against the bank. It serves no other purpose than to evince the spirit of the prosecution.

Another charge gravely urged against the bank, and of which the administration ought to be ashamed, is the criminal audacity of demanding from the Government, on a protested bill of exchange, the same damages which the Government itself has universally demanded of individuals under like circumstances!

The Government being desirous to obtain funds here in exchange for funds in Paris, the bank in the spirit of kindness and accommodation which has marked all its transactions with the Government, voluntarily offered to purchase a bill of exchange from the Treasury here upon the French Government, upon better terms than could be obtained any where else, or to advance the money to the Government here, and undertake the collection of the bill as its agent. The Treasury declined the agency of the bank, and sold it the bill on the French Government as a mere commercial transaction. From some cause the French Government refused to pay the bill and it was protested in Paris. The agents of the Bank there, paid it for the honor of the bank. But the President of the United States alleges that the sum paid here for the bill, was left in the bank and simply added to the amount of the public deposits. If this were true, it would not vary the case as to the legal liability of the Government for damages. But it is not true. On the contrary, the Secretary of the Treasury, under the authority of an act of Congress, gave public notice that the nine hundred thousand dollars obtained for this bill, would be loaned out for the benefit of the claimants for French spoliation to whom it belonged. It was, therefore, as much taken from the available fund of the bank, as if it had been immediately paid over to the claimants. The directors would have been stupid in the extreme, if they had regarded this as an addition to the Government deposits, and made it the basis of discounts. The bank having sold the bill in London, would have been liable to the full amount of legal damages on its being protested, but for the good fortune of having an agent in Paris who paid it. And now, Sir, after the bank has saved its own credit and that of the Government by this payment, the administration comes forward with a charge against the bank of assailing the credit of the nation, because it demands its legal rights! Sir, the faith of the nation has been tarnished—deeply tarnished—by the utter disregard the Government has manifested, in a mere question of legal right, to the great moral and religious precept of doing unto others as it would that others should do unto it. The Government has inva-

riably exacted the legal damages from individuals in similar cases. In the case of Stephen Girard, conclusive proof was adduced that the protested bill was immediately paid—by the agent of Girard, and not by the agent of the Government—and that not one cent of damages was sustained by the Government. Yet the twenty per cent. damages were exacted to the uttermost farthing. Under these circumstances it is a shame, a crying shame, that the administration should thus not only refuse to pay its just debts, but assuming the judicial power of deciding in its own case, attempt to forestall the opinion of the tribunals which are alone competent to decide the question. In every view it was the duty of the bank to make this claim, and of the Government to pay it. It was the only mode of obtaining damages from the French Government; for unless our Government shall pay damages, it can exact none from France. To say nothing of the other stockholders, the people of the United States own one-fifth of the stock of the bank, and they have a right to demand that the administration do not sacrifice upwards of thirty thousand dollars of their money, by its arbitrary and faithless conduct towards the bank. In every respect, this is one of the most audacious charges ever brought by the administration against the bank, to justify the high-handed measures by which they have attempted to destroy it.

I will now proceed, sir, to consider that charge against the Bank, which is the real moving cause of this persevering and relentless persecution. It is, as the executive expresses it, that the bank "has attempted to acquire political power," a charge unknown to any code of law, moral or political, and of that fearful vagueness which indicates the arbitrary spirit in which it originates. The first specification under this charge is founded on a resolution of the Board of Directors, authorizing the President of the Bank to have certain documents printed to illustrate its operations. To my mind this seems to be a very harmless resolution, but as the President of the United States has denounced it as a dangerous precedent, clothing the President of the Bank with powers subversive of the liberties of the country, I will beg leave to read it for the information of the House: "*Resolved*, that the President be authorized to cause to be prepared and circulated such documents and papers as may communicate to the people *information in regard to the nature and operations of the bank.*" Now, I pray to know, sir, what application of the funds of the stockholders could be more useful and judicious, when the institution and its credit were assailed by every species of misrepresentation and calumny? But the President of the United States seems to regard it as equivalent to clothing the President of the Bank with the whole fiscal and military power of the country. He says:

"Was it expected when the moneys of the United States were directed to be placed in that bank, that they would be put under the control of one man, empowered to spend millions without rendering a voucher or specifying the object?"

Can they be considered safe with the evidence before us, that tens of thousands have been spent for highly improper, if not corrupt purposes, that the same motive may lead to the expenditure of hundreds of thousands and even millions more. And can we justify ourselves to the people by longer lending to it the money and power of the Government, to be employed for such purposes?"

It seems that the President of the United States has an instinctive abhorrence for discretionary executive power delegated to any one but himself. What is this power vested in the President of the Bank? It is not only harmless and innocent in its object, but perfectly safe as a responsible exercise of power. The President acts under the authority of the directors, with whom he is daily associated, who have daily opportunities of inspecting his proceedings, and to whom he is, therefore, under a constant and direct responsibility for the exercise of the discretion vested in him, as to the amount he may spend in printing documents explaining the operations and vindicating the credit and the character of the bank. Yet the President of the United States thinks this very insignificant power subversive of public liberty, when he is himself clothed with a discretion a thousand times more dangerous. Sir, when I recur to what was done here at the last session—when I reflect that an act was passed, I will not call it a law, and that too at the *special instance and request* of the President, clothing him with the power not only to spend the whole revenue, but to exhaust the credit of the nation in arraying a military power against a sovereign State of this Union, I confess I cannot but feel surprise and disgust to hear that President magnifying a molehill into a mountain, and talking about the danger of executive discretion! A simple resolution authorizing the President of the Bank to print explanatory documents is a monstrous proceeding, but an act clothing the President of the United States with dictatorial power, is all perfectly fair and proper! This brings very forcibly to my recollection another Dutch anecdote, and as I am in the way of drawing illustrations from this excellent class of our citizens, from whose very eccentricities lessons of wisdom may be deduced, I beg leave to relate it. In a certain Dutch vicinity, I will not say Kinderhook lest a question of location should arise—a lottery was authorised, and on a certain day the neighbors all assembled to witness the turning of the wheel. The drawing commenced, and blank after blank was drawn by the principal persons in the neighborhood until a general suspicion of unfairness began to prevail. A large bully stepped forward as the champion of his neighbors, threatening to *smash* the wheel to atoms, and declaring that it was all a "*villainous piece of cheater*." In the midst of his rage, when every one was trembling for the safety of the wheel, a friend stepped up to him with great exultation, exclaiming, "my dear sir, have you heard the news? You have drawn the highest prize." "What, (said he) the highest prize! *It's as fair a thing as ever was.*"

And so, Sir, in the estimation of General Jackson, the discretionary power to print a few docu-

ments, when conferred on Mr. Biddle, is all a piece of cheater, but when a discretionary power of levying war and spending money without any limitation is conferred upon himself, it is as fair a thing as ever was.

The President of the United States asks if a bank whose directors make such an application of the public funds is fit to be the depository of the public treasure? Sir, I wish the President of the United States had been as faithful to the trust committed to him as the agent of the people of the United States, who own one fifth part of the stock in this bank, as the directors and officers of the institution have been to their trust, as the agents of the stockholders in general. What, then, are the respective duties of the President of the United States and the President of the Bank, as representatives of the stockholders, and how have those duties been performed. The contrast is striking. It is equally the duty of them both to promote the prosperity and credit of the bank, in order that its capital may yield a large profit, and its bills furnish a sound currency. But what has been their conduct? For several years past, Mr. Biddle has been night and day exerting talents of the highest order, with a singleness and devotion never surpassed, to promote the credit and usefulness of the bank. And what has the President of the United States been doing in the same period? Has he exerted his influence to advance the credit and success of the bank, as the relation he bears to the stockholders and the country required him to do? No, Sir. On the contrary, he has been straining every nerve, and attempting to move heaven and earth to accomplish the destruction of its credit, and consequently of its prosperity. At a time when the bank was as solvent as any bank in the world, he suggested that the public deposits were not safe in its vaults. This charge, which in any other country would have shaken the credit of any other bank, coming from such a source, made not the slightest impression upon the Bank of the United States. Nothing can be said more highly creditable to the bank than that it was able to stand up against this assault upon its credit by the executive government, and a confederacy of speculators and stock-jobbers, which would certainly have prostrated the Bank of England.

And what a lesson are we taught at this very moment of the danger incurred by unskilful persons who venture to meddle with edged tools. The administration, or more properly the President, has struck a blow that it was supposed would shake the credit of the bank to its deepest foundations. That blow has recoiled. And while the credit of all the other banks has been shaken by the concussion, the Bank of the United States stands alone on a rock of adamant, bidding a proud defiance to the storm, and generously extending the hand of succor to other institutions. Yes, sir, I am informed that within a few days past this bank tendered a loan of \$50,000 to one of the local banks to relieve it from the pressure produced by this reckless and vindictive act of executive madness. Such, Sir, is the contrast between these two Presidents.

I come now to another of the specifications under the charge against the bank, of "attempting to acquire political power." It is alleged by the Secretary of the Treasury that between the 1st of January, 1831, and the 1st of May, 1832, a period of sixteen months, the bank increased its loans the enormous and unprecedented sum of \$28,000,000. And it is inferred that this extension of its loans could be designed for no other purpose but to give the bank a political influence to be used in opposition to the election of General Jackson. I will first examine the facts and then the logic of this specification. The Secretary states that "the aggregate debt due to the bank" on the 1st of January, 1831, amounted to \$42,402,304 only, whereas on the 1st of May, 1832, its loans amounted to \$70,428,079. Now, in fact, the discounts of the bank amounted to \$33,575,403 at the former date, and had only risen to \$47,375,078 at the latter date, making a difference in the accommodations to the community of only \$13,799,675, instead of twenty-eight millions as the Secretary's statements would induce the public to suppose. But this is not all. At the former period, the bank had a debt due to it by the Government of \$8,674,681, and by Baring & Co. \$2,387,331, making a sum of 11,062,012, which added to the discounts, raised the debt due to the bank in January, 1831, exclusive of domestic bills, to \$44,637,415, being only \$2,737,663 less than the amount of discount in May, 1832. It is apparent from this view, that the aggregate debt due to the bank in January, 1831, including \$10,456,653 of domestic bills, was \$55,094,068 instead of \$42,402,304, as represented by the Secretary of the Treasury, making the difference between the debt due to the bank at the two periods selected for comparison, even if we include the domestic bills, only \$15,334,002, and if we exclude these bills as not properly classed with bank loans, the difference will be only \$4,877,349. It will be here perceived that to make out his charge of an unprecedented extension of its loans by the bank in the sixteen months artfully selected, the Secretary has suppressed the debts due to the bank by the United States, and by Baring & Co. amounting to \$11,062,012, in stating the "aggregate debt due to the bank" in January, 1831. And I am constrained, Sir, to believe that this suppression was intentionally made, as the facts were upon the face of the monthly statements, and of a nature not to be overlooked, or misunderstood. When the bank converted its government and foreign debt into cash, what course could it pursue but make a corresponding extension of its discounts? This was not extending its debt, but changing its character, by lending to our merchants what it had collected from the government and foreigners. To censure this, argues a total ignorance of the duties of the bank, and disregard of the pressing wants of the commercial community at the period under review. It was a period of unprecedentedly large importations, when the heavy commercial debt contracted, and the unusual amount of bonds due to the government, required that the bank should draw in all its resources from other quarters, and apply them to

the relief of the commercial community. They were so applied, Sir, and were the means of saving probably hundreds and thousands from great distress, if not from bankruptcy.

I well recollect the lugubrious vaticinations of a gentleman from New York, (Mr. CAMBERLENG,) who told us that the bank had seduced the merchants into the excessive importations, and it could not save the country from general bankruptcy. But experience, which has falsified this prediction, has shewn that the bank understood its own duties and operations much better than those who chose to step out of their appropriate sphere, however enlightened on the general subject of political economy. The country not only passed through the crisis, by means of the wise and liberal course pursued by the bank, but passed through it without a struggle. The merchants would not fail, even to accommodate the gentleman from New York, and the country was brought out of its difficulties so naturally and smoothly, that it was hardly aware of the crisis. The bank is certainly entitled to the highest commendation instead of being obnoxious to censure, for effecting this great public benefit, without impairing its own credit—a result which the gentleman from New York deemed utterly impracticable. If I were to select the period, or the incident in the history of its proceedings, best adapted to illustrate its usefulness it would be precisely this. And I will only remark further on this point, that the intellect of that man must be woefully perverted, who can see in this proceeding no other motive or object, than to interfere in the Presidential election.

I have gone through all the charges brought against the bank that I deem worthy of notice, and I now beg the attention of the House to those urgent considerations which impel it to an immediate interposition of its authority. I need not tell those who hear me of the actual and impending distress and ruin which threaten our commercial cities, and finally the whole country. The evidences of this are every where to be seen. We can neither turn to the right nor to the left, without perceiving anxiety and dismay in every countenance. Is it not, then, the solemn duty of Congress to interpose its constitutional power to arrest the progress of this desolating torrent? We are called upon, Sir, by every consideration which can grow out of a just regard for our own contemned authority, or for the rights and liberties of the people. The President of the United States has unlawfully seized upon the public treasure. Where, Sir, is that treasure at this moment? No man here can tell us. By what authority has the President taken it? Let gentlemen produce it if they can.

Sir, Congress is peculiarly called upon to vindicate its right to the guardianship of the public treasure, because the President has attempted to forestall its decision and places it in a situation which may preclude the free exercise of its judgment. Why, Sir, was the change of the deposits, made only sixty days before meeting of Congress? I will tell you the reason. The President was fearful that he could

not induce even a drilled majority to do that which if already done upon *his* responsibility, it might be induced to sanction. He is a military man, Sir, and he knows the effect produced in desperate emergencies, when the General throws himself into the breach, and calls upon his soldiers to rush to his rescue, or witness his destruction. There could not have been selected a time for performing this act better calculated to show the President's defiance of the Legislative authority. And yet, Sir, the Secretary of the Treasury has come here with the miserable—I had almost said impudent pretence—that he was constrained to do it by the necessities of the country. It is not true, Sir. The President had only to announce that the deposits would not be removed until the question should be first submitted to Congress, and the public mind would have been put at ease. The Secretary well knew this. But the Executive Government has thought proper to thrust itself forward and place the subject in such a position as almost to deprive Congress of its free agency. We are now told by a gentleman from New York, (Mr. CAMBRELENG,) that the restoration of the deposits to the Bank of the United States was an idea that struck him with alarm; that the country had already suffered too much from one removal to be able to endure the effects of another. It is for this reason that I have made my resolution prospective. I am not so reckless of the sufferings of the community, as to take away the money which has been actually deposited in the selected banks. I know we shall be told that the picture of public distress is exaggerated. One gentleman, indeed, (MR. VANDERPOEL,) told us the other day, that it was *all a humbug* to ascribe the prevailing distress to the removal of the deposits. If this be a humbug, it is a very melancholy one. But whatever gentlemen may have thought three days ago, I believe there is no one who would *now* be bold enough to say that the removal of the deposits has had no agency in producing the public distress. The calamity can hardly be over estimated. Any idea which we can form of it here, will fall short of the sad reality. I confess, Sir, I have been astonished at the accounts brought by every mail. I did not believe that a scene of distress so sudden and extensive, could have been produced by the miserable tampering of the Government with the system of commercial credit. It is a mistake to suppose that it is confined to the merchants or to the commercial cities. It will extend like a wave until it affects every class and reaches the furthest limits of the country. In relation to one of the great national interests, I can speak with positive knowledge, as to the depression this measure has produced in the value of property. I confidently believe that every cotton planter, who did not sell his crop at the commencement of the season, has lost two cents on every pound of his cotton, in consequence of this measure. It is a fact without precedent, but conclusively shown, by a comparison of the Liverpool and Charleston prices current, that the price of cotton has been habitually five cents lower in this country, at any given

time, than the European prices published at the same time here. I presume all other descriptions of property have experienced a similar depression, and can well imagine that all property in stocks, public, or private, must have suffered even in a greater degree. It is stated on good authority, that the stock of the Girard Bank, the one selected in Philadelphia to receive the Government deposits, has fallen from 70 to 54 since the 1st of October.

An administration that will thus wantonly tamper with public faith and private property, to promote the selfish purposes of individuals—whatever else it may be called—does not deserve the name of Government. In what, I would ask is all this to result? I am not sure that I know precisely what is its *object*, but I can tell you very certainly what will be its *end*. It will be, Sir, the sacrifice of the industrious and enterprising classes of the community, to promote the interest of speculators and stock-jobbers. Hundreds of industrious men, whose credit is their principal capital, will be ruined, while the money lenders and money changers will realize princely fortunes, making a rich harvest of the public distresses. If there be any speculators in the stocks—whether connected with the administration or not—who have stipulated to deliver certificates of State bank stock on a given day, they may profit by this act of the Government. But if there be any who have calculated to make this measure subservient to their speculations in the stock of the United States Bank, I rejoice that they will be disappointed. The stock of that bank has been less affected than any other.

And now, Sir, in concluding my remarks, I must be permitted to say, that if we ratify this proceeding of the President and Secretary of the Treasury, by refusing to order the restoration of the deposits—in addition to the present suffering and distress of the people, we shall permit a system of political banking to be entailed upon the country, utterly incompatible with public liberty. If we intend that it shall ever be arrested it must be done *now*. For if we give time the complete establishment of this confederacy between the Executive Government and the State banks in all its ramifications of dependant interests, I will defy all human power to break the league or resist the man who wields its power. Is it not apparent that it will convert the deposit banks into dependants and partisans of the President? Is it not equally apparent that the politician who controls these banks, will indirectly control all those who are indebted to them, and thus obtain an absolute control over the public will? If this House shall confirm the act of the President, it will be, in my humble opinion, establishing in perpetuity, a corrupting connexion between the banking capital and the political power of the country, and placing them both in the hands of one man. I trust in God that the country will not be destined to such a condition by the vote of this House. If it should, I can only pray that a power more than human may be interposed for its rescue.

REMARKS

OF THE

HON. JOHN C. CALHOUN,

DELIVERED IN THE

SENATE OF THE UNITED STATES, JANUARY, 13, 1834,

ON THE SUBJECT OF THE

REMOVAL OF THE DEPOSITES

FROM THE

BANK OF THE U. STATES.

WASHINGTON.

1834.

SECRET

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SPEECH OF MR. CALHOUN.

IN SENATE.—MONDAY, JANUARY 13, 1834.

The Special Order now came up, The question being on Mr. CLAY's resolutions in regard to the removal of the Public Deposites—

Mr. CALHOUN then rose, and said, that the statement of this case might be given in a very few words. The 16th section of the act incorporating the bank, provides that wherever there is a bank or branch of the U. States Bank, the public moneys should be deposited therein, unless otherwise ordered by the Secretary of the Treasury, and that, in that case, he should report to Congress, if in session, immediately; and if not, at the commencement of the next session. The Secretary, acting under the provision of this section, has ordered the deposits to be withheld from the bank, and has reported his reasons, in conformity with the provisions of the section. The Senate is now called upon to consider his reasons, in order to determine whether the Secretary is justified or not. I have examined them with care and deliberation without the slightest bias, as far as I am conscious, personal or political. I have but a slight acquaintance with the Secretary, and that little is not unfavorable to him. I stand wholly disconnected with the two great parties now contending for ascendancy. My political connexions are with that small and denounced party which has voluntarily wholly retired from the party strifes of the day, with a view of saving, if possible, the liberty and the Constitution of the country, in this great crisis of our affairs.

Having maturely considered, with these impartial feelings, the reasons of the Secretary, I am constrained to say, that he has entirely failed to make out his justification. At the very commencement he has placed his right to remove the deposits on an assumption resting on a misconception of the case. In the progress of his argument he has entirely abandoned the first, and assumed a new and greatly enlarged ground, utterly inconsistent with the first, and equal-

ly untenable; and yet, as broad as his assumptions are, there is an important part of the transaction which he does not attempt to vindicate, and to which he has not even alluded. I shall, said Mr. CALHOUN, now proceed without further remark to make good these assertions.

The Secretary, at the commencement of his argument, assumes the position that, in the absence of all legal provision, he, as the head of the financial department, had the right, in virtue of his office, to designate the agent and place for the safe keeping of the public deposits. He then contends that the 16th section does not restrict his power, which stands, he says, on the same ground that it had before the passing of the act incorporating the bank. It is unnecessary to inquire into the correctness of the position assumed by the Secretary; but, if it were, it would not be difficult to show that when an agent, with general powers, assumes, in the execution of his agency, a power not delegated, the assumption rests on the necessity of the case; and that no power in such case, can be lawfully exercised, which was not necessary to effect the object intended. Nor would it be difficult to show that, in this case, the power assumed by the Secretary would belong, not to him, but to the Treasurer, who, under the act organizing the Treasury Department, is expressly charged with the safe keeping of the public funds, for which he is responsible under bond, in heavy penalties. But, as strongly and directly as these considerations bear on the question of the power of the Secretary, I do not think it necessary to pursue them, for the plain reason that the Secretary has entirely mistaken the case. It is not a case, as he supposes, where there is no legal provision in relation to the safe keeping of the public funds, but one of precisely the opposite character. The 16th section expressly provides that the deposits shall be made in the bank and its branches, and of course it is perfectly clear that all powers

which the Secretary has derived from the general and inherent powers of his office, in the absence of such provision, are wholly inapplicable to this case. Nor is it less clear, that if the section had terminated with the provision directing the deposits to be made in the bank, the Secretary would have had no more control over the subject, than myself, or any other Senator; and it follows, of course, that he must derive his power, not from any general reasons connected with the nature of his office, but from some express provision contained in the section, or some other part of the act. It has not been attempted to be shown, that there is any such provision in any other section or part of the act. The only control, then, which the Secretary can rightfully claim over the deposits, is contained in the provision which directs that the deposits shall be made in the bank, unless otherwise ordered by the Secretary of the Treasury; which brings the whole question, in reference to the deposits, to the extent of the power which Congress intended to confer upon the Secretary, in these few words—"unless otherwise ordered."

In ascertaining the intention of Congress, I lay it down as a rule, which I suppose will not be controverted, that all political powers under our free institutions are trust powers, and not rights, liberties or immunities, belonging personally to the officer. I also lay it down as a rule, not less incontrovertible, that trust powers are necessarily limited (unless there be some express provision to the contrary,) to the *subject matter and object* of the trust. This brings us to the question—what is the subject and object of the trust, in this case. The whole section relates to deposits—to the safe and faithful keeping of the public funds. With this view they are directed to be made in the bank. With the same view, and in order to increase the security, power was conferred on the Secretary to withhold the deposits; and, with the same view, he is directed to report his reasons, for the removal, to Congress. All have one common object—the security of the public funds. To this point the whole section converges. The language of Congress, fairly understood, is—we have selected the bank because we confide in it as a safe and faithful agent to keep the public money; but to prevent the abuse of so important a trust, we invest the Secretary with power to remove the deposits, with a view to their increased security. And lest the Secretary, on his part, should abuse so important a trust—and in order still further to increase that security—we direct, in case of removal, that he

shall report his reasons. It is obvious, under this view of the subject, that the Secretary has no right to act in relation to the deposits but with a view to their increased security. That he has no right to order them to be withheld from the bank so long as the funds are in safety, and the bank has faithfully performed the duties imposed in relation to them; and not even then, unless the deposits can be placed in safer and more faithful hands. That such was the opinion of the Executive, in the first instance, we have demonstrative proof, in the message of the President to Congress at the close of the last session, which placed the subject of the removal of the deposits exclusively on the question of their safety; and that such was also the opinion of the H. of Representatives then, we have equally conclusive proof, from the vote of that body, that the public funds in the bank were safe, which was understood, at that time, on all sides, by friends and foes, as deciding the question of the removal of the deposits.

The extent of the power intended to be conferred being established, the question now arises, has the Secretary transcended its limit? It can scarcely be necessary to argue this point. It is not even pretended that the public deposits were in danger, or that the Bank had not faithfully performed all the duties imposed on it in relation to them; nor that the Secretary had placed the money in a safer or in more faithful hands. So far otherwise, there is not a man who hears me, who will not admit that the public moneys are now less safe than they were in the Bank of the United States. And I will venture to assert, that not a capitalist can be found who would not ask a considerably higher per centage to insure them in their present, than in the place of deposit designated by law. If these views are correct, and I hold them to be unquestionable, the question is decided. The Secretary has no right to withhold the deposits from the Bank. There has been, and can be, but one argument advanced in favour of his right; which has even the appearance of being tenable; that the power to withhold is given in general terms, and without qualification, "*unless the Secretary otherwise direct.*" Those who resort to this argument, must assume the position—that the letter ought to prevail over the clear and manifest intention of the act. They must regard the power of the Secretary, not as a trust power limited by the subject and the object of the trust, but as a chartered right, to be used according to his discretion and pleasure. There is a radical defect in our mode of construing political pow-

ers, of which this and many other instances afford striking examples; but I will give the Secretary his choice; either the intention or the letter must prevail; he may select either, but cannot be permitted to take one or the other as may suit his purpose. If he chooses the former, he has transcended his powers, as I have clearly demonstrated. If he selects the latter, he is equally condemned, as he has clearly exercised power not comprehended in the letter of his authority. He has not confined himself simply to withholding the public moneys from the Bank of the U. States, but he has ordered them to be deposited in other Banks, though there is not a word in the section to justify it. I do not intend to argue the question, whether he had a right to order the funds, withheld from the United States Bank to be placed in the State Banks which he has selected; but I ask, how has he acquired that right? It rests wholly on construction—on the supposed intention of the legislature, which, when it gives a power, intends to give all the means necessary to render it available. But, as clear as this principle of construction is, it is not more clear than

that which would limit the right of the Secretary to the question of the safe and faithful keeping of the public funds; and I cannot admit that the Secretary shall be permitted to resort to the letter or to construction, as may best be calculated to enlarge his power, when the right construction is denied to those who would limit his power by the clear and obvious intention of Congress.

I might here, said Mr. CALHOUN, rest the question of the power of the Secretary over the deposits, without adding another word. I have placed it on grounds from which no ingenuity, however great, or subtlety, however refined, can remove it; but such is the magnitude of the case, and such my desire to give the reasons of the Secretary the fullest consideration, that I shall follow him through the remainder of his reasons.

That the Secretary was conscious that the first position which he assumed, and which I have considered, was untenable, we have ample proof in the precipitancy with which he retreated from it. He had scarcely laid it down, when, without illustration or argument, he passed with a rapid transition, and I must say a transition as obscure as rapid, to another position wholly inconsistent with the first; and in assuming which he expressly repudiates the idea that the safe and faithful keeping of the public funds had any necessary connexion with his removal of the deposits; his power to do which he places on the broad and unlimited

ground, that he had a right to make such disposition of them as the public interest, or the convenience of the people might require. I have said that the transition of the Secretary was as obscure as it was rapid; but obscure as it is, he has said enough to enable us to perceive the process by which he has reached so extraordinary a position; and we may safely affirm, that his arguments are not less extraordinary than the conclusion at which he arrives. His first proposition, which, however, he has not ventured to lay down expressly, is, that Congress has an unlimited control over the deposits, and that it may dispose of them in whatever manner it may please, in order to promote the general welfare and convenience of the people. He next asserts that Congress has parted with this power, under the sixteenth section, which directs the deposits to be made in the Bank of the United States, and then concludes with affirming that it has invested the Secretary of the Treasury with it, for reasons which he professes to be unable to understand.

It cannot be necessary, before so enlightened a body, that I should undertake to refute an argument so utterly untrue in premises and conclusion—to show that Congress never possessed the power which the Secretary claims for it—that it is a power, from its very nature, incapable of such enlargement, being limited solely to the safe keeping of the public funds—that if it existed, it would be susceptible of the most dangerous abuses—that Congress might make the wildest and most dangerous association the depository of the public funds—might place them in the hands of the fanatics and the madmen of the North, who are waging war against the domestic institutions of the South, under the plea of promoting the general welfare. But admitting that Congress possessed the power which the Secretary attributes to it, by what process of reasoning can he show that it has parted with this unlimited power, simply by directing the public moneys to be deposited in the Bank of the United States? or, if it has parted with the power, by what extraordinary process has it been transferred to the Secretary of the Treasury, by those few and simple words, “unless he shall otherwise direct?” In support of this extraordinary argument, the Secretary has offered not a single illustration, nor a single remark bearing the semblance of reason, but one, which I shall now proceed to notice.

He asserts, and asserts truly, that the bank charter is a contract between the Government, or rather the people of the U. S. and the bank, and

then assumes that it constitutes him a common agent or trustee, to superintend the execution of the stipulations contained in that portion of the contract comprehended in the sixteenth section. Let us now, taking these assumptions to be true, ascertain what those stipulations are, the superintendence of the execution of which, as he affirms, are jointly confided by the parties to the Secretary. The Government stipulated, on its part, that the public money should be deposited in the Bank of the U. S.—a great and valuable privilege, on which the successful operation of the institution mainly depends. The Bank, on its part, stipulated that the funds should be safely kept—that the duties imposed in relation to them should be faithfully discharged, and that for this, with other privileges, it would pay to the Government the sum of one million five hundred thousand dollars. These are the stipulations, the execution of which, according to the Secretary's assumption, he has been appointed as joint agent or trustee, to superintend, and from which he would assume the extraordinary power which he claims over the deposits to dispose of them in such manner as he may think the public interest or the convenience of the people may require.

Is it not obvious that the whole extent of power conferred upon him, admitting his assumption to be true, is to withhold the deposits in case that the bank should violate its stipulations in relation to them on one side, and on the other to prevent the Government from withholding the deposits, so long as the bank faithfully performed its part of the contract. This is the full extent of his power. According to his own showing, not a particle more can be added. But there is another aspect in which the position in which the Secretary has placed himself may be viewed. It offers for consideration not only a question of the extent of his power, but a question as to the nature and extent of duty which has been imposed upon him. If the position be such as he has described, there has been confided to him a trust of the most sacred character, accompanied by duties of the most solemn obligation. He stands by the mutual confidence of the parties, vested with the high judicial power to determine on the infraction or observance of a contract in which government and a large and respectable portion of the citizens are deeply interested; and, in the execution of this high power, he is bound, by honor and conscience, so to act as to protect each of the parties in the full enjoyment of their respective portion of benefit in the contract, so long as they

faithfully observe it. How has the Secretary performed these solemn duties, which, according to his representation, have been imposed upon him. Has he protected the bank against the aggression of the government, or the government against the unfaithful conduct of the bank in relation to the deposits? Or has he, forgetting his sacred obligations, disregarded the interests of both—on one side, divesting the bank of the deposits, and on the other, defeating the government in the intended security of the public funds, by seizing on them as the property of the Executive, to be disposed at pleasure, to favorite and partizan banks.

But I shall relieve the Secretary from this awkward and disreputable position in which his own arguments have placed him. He is not the mutual trustee, as he has represented, of the government and the bank; but simply the agent of the former, vested under the contract, with power to withhold the deposits with a view, as has been stated, to their additional security—to their safe keeping; and if he had but for a moment reflected on the fact, that he was directed to report his reasons to Congress only, and not also to the bank, for withholding the deposits, he could scarcely have failed to perceive that he was simply the agent of one of the parties, and not, as he supposes, a joint agent of both.

The Secretary having established, as he supposes, his right to dispose of the deposits, as in his opinion the general interest and convenience of the people might require, proceeds to claim and exercise power with a boldness commensurate with the extravagance of the right which he has assumed. He commences with a claim to determine in his official character, that the Bank of the United States is unconstitutional—a monopoly—baneful to the welfare of the community. Having determined this point, he comes to the conclusion that the charter of the bank ought not to be renewed, and then assumes that it will not be renewed. Having reached this point he then determines that it is his duty to remove the deposits. No one can object that Mr. Taney, as a citizen, in his individual character, should entertain an opinion as to the unconstitutionality of the bank; but that he, acting in his official character, and performing official acts under the charter of the bank, should undertake to determine that the institution was unconstitutional, and that those who granted the charter, and bestowed upon him his power to act under it, had violated the constitution, is an assumption of power of a nature which

I will not undertake to characterize, as I wish not to be personal.

But he is not content with the power simply to determine on the unconstitutionality of the bank. He goes far beyond—he claims to be the organ of the voice of the people. In this high character he pronounces that the question of the renewal of the bank charter was put in issue at the last Presidential election, and that the people had determined that it should not be renewed. I do not, said Mr. CALHOUN, intend to enter into the argument whether, in point of fact, the renewal of the charter was put at issue at the last election. That point was ably and fully discussed by the honorable Senators from Kentucky, (Mr. CLAY,) and New Jersey, (Mr. SOUTHARD,) who conclusively proved that no such question was involved in the issue; and, if it were, the issue comprehended so many others that it was impossible to conjecture on which the election turned. I look to higher objections. I would inquire by what authority the Secretary of the Treasury constitutes himself the organ of the people of the United States. He has the reputation of being an able lawyer, and can he be ignorant that so long as the Constitution of the United States exists, the only organs of the people of these States, as far as the action of the General Government is concerned, are the several departments, legislative, executive, and judicial; which, acting within the respective limits assigned by the Constitution, have a right to pronounce authoritatively, the voice of the people. A claim on the part of the Executive to interpret, as the Secretary has done, the voice of the people, through any other channel, is to shake the foundation of our system. Has the Secretary forgotten that the last step to absolute power is this very assumption which he has claimed for that department? I am thus brought, said Mr. C., to allude to the extraordinary manifesto read by the President to the Cabinet, and which is so intimately connected with the point immediately under consideration. That document, though apparently addressed to the Cabinet, was clearly and manifestly intended as an appeal to the people of the United States, and opens a new and direct organ of communication between the President and them unknown to the Constitution and the laws. There are but two channels known to either, through which the President can communicate with the people—by messages to the two Houses of

Congress, as expressly provided for in the Constitution, or by proclamation, setting forth the interpretations which he places upon a law it has become his official duty to execute. Going beyond, is one amongst the alarming signs of the times which portend the overthrow of the Constitution and the approach of despotic power.

The Secretary, having determined that the Bank was unconstitutional, and that the people had pronounced against the recharter, concludes that Congress had nothing to do with the subject. With a provident foresight, he perceives the difficulty and embarrassment into which the currency of the country would be thrown on the termination of the Bank charter; to prevent which, he proceeds deliberately, with a parental care, to supply a new currency, "equal to, or better," than that which Congress had supplied. With this view, he determines on an immediate removal of the deposits; he puts them in certain State institutions, intending to organize them after the fashion of the empire state, into a great safety-fund system, but which, unfortunately, undoubtedly for the projectors, if not for the country, the limited power of the State Banks did not permit him to effect. But a substitute was found by associating them in certain articles of agreement, and appointing an inspector general of all this league of banks! and all this without law or appropriation! Is it not amazing, that it never occurred to the Secretary, that the subject of currency belonged exclusively to Congress, and that to assume to regulate it was a plain usurpation of the powers of that department of the government?

Having thus assumed the power officially to determine on the constitutionality of the Bank; having erected himself into an organ of the people's voice, and settled the question of the regulation of the currency, he next proceeds to assume the judicial powers over the Bank. He declares that the Bank has transcended its powers, and has therefore forfeited its charter, for which he inflicts on the institution the severe and exemplary punishment of withholding the deposits; and all this in the face of an express provision, investing the court with power touching the infraction of the charter, directing in what manner the trial should be commenced and conducted, and securing expressly to the bank the sacred right of trial by jury in finding the facts. All this passed for nothing in the eyes of the Secretary, who was too deeply engrossed in providing for the common welfare to regard either

Congress the Court, or the Constitution. The Secretary next proceeds to supervise the general operations of the bank, pronouncing with authority that, at one time, it has discounted too freely, and at another, too sparingly, without reflecting that all the control which the government can rightfully exercise over the operations of the institution, is through the five directors who represent the Government in this respect. Directors! Mr. CALHOUN exclaimed, did I say, (alluding to the present.) No, spies is their proper designation.

I cannot, said Mr. C., proceed with the remarks which I intended, on the remainder of the Secretary's reasons; I have not patience to dwell on assumptions of power so bold, so lawless, and so unconstitutional; they deserve not the name of argument, and I cannot waste time in treating them as such. There are, however, two which I cannot pass over, not because they are more extraordinary or audacious than the others, but for another quality, which I choose not to designate.

The Secretary alleges that the bank has interfered with the politics of the country. If this be true, it certainly is a most heinous offence. The bank is a great public trust, possessing, for the purpose of discharging the trust, great power and influence, which it could not pervert from the object intended to that of influencing the politics of the country, without being guilty of a great political crime. In making these remarks, I do not intend to give any countenance to the truth of the charge alleged by the Secretary, nor to deny to the officers of the bank the right which belongs to them, in common with every citizen, freely to form political principles, and act on them, in their private capacity, without permitting them to influence their official conduct. But it is strange it did not occur to the Secretary, while he was accusing and punishing the bank on the charge of interfering in the politics of the country, that the Government also was a great trust, vested with powers still more extensive, and influence immeasurably greater than that of the bank, given to enable it to discharge the object for which it was created; and that it has no more right to pervert its power and influence into the means of controlling the politics of the country, than the bank itself. Can it be unknown to him that the Fourth Auditor of the Treasury—(an officer in his own department,) the man who has made so prominent a figure in this transaction, was daily and

hourly meddling in politics, and that he is one of the principal political managers of the Administration? Can he be ignorant that the whole power of the Government has been perverted into a great political machine, with a view of corrupting and controlling the country? Can he be ignorant that the avowed and open policy of the Government is to reward political friends, and punish political enemies? and that, acting on this principle, it has driven from office hundreds of honest and competent officers for opinion's sake only, and filled their places with devoted partizans? Can he be ignorant that the real offence of the Bank, is not that it *has* intermeddled in politics, but because it *would not* intermeddle on the side of power? There is nothing more dignified than reproof from the lips of innocence, or punishment from the hands of justice; but change the picture—let the guilty reprove, and the criminal punish, and what more odious, more hateful, can be presented to the imagination?

The Secretary next tells us, in the same spirit, that the bank had been wasteful of the public funds. That it has spent some thirty, forty, or fifty thousand dollars—I do not remember the exact amount—(trifles have no weight in the determination of so great a question) in circulating essays and speeches in defence of the institution, of which sum, one-fifth part—some seven thousand dollars—belonged to the Government. Well, sir, if the bank has really *wasted* this amount of the public money, it is a grave charge. It has not a right to waste a single cent; but I must say, in defence of the bank, that, assailed as it was by the Executive, it would have been unfaithful to its trust, both to the stockholders and to the public, had it not resorted to every proper means in its power to defend its conduct, and, among others, the free circulation of able and judicious publications.

But admit that the bank has been guilty of wasting the public funds, to the full extent charged by the Secretary, I would ask if he, the head of the financial department of the Government, is not under as high and solemn obligation to take care of the monied interest of the public as the bank itself? I would ask him to answer me a few simple questions: How has he performed this duty in relation to the interest which the public holds in the bank? Has he been less wasteful than he has charged the bank to have been? Has he not wasted thousands where the bank, even ac-

cording to his own statement, has hundreds? Has he not, by withdrawing the deposits and placing them in the State Banks, where the public receives not a cent of interest, greatly affected the dividends of the Bank of the United States, in which the Government, as a stockholder, is a loser to the amount of one-fifth of the diminution?—a sum which I will venture to predict will many fold exceed the entire amount which the bank has expended in its defence. But this is a small, a very small proportion of the public loss, in consequence of the course which the Executive has pursued in relation to the bank, and which has reduced the value of the shares, from 130 to 108—(a Senator near me says much more. It may be, I am not particular in such things)—and on which the public sustains a corresponding loss on its share of the stock, amounting to seven millions of dollars—a sum more than two hundred fold greater than the waste which he has charged upon the bank. Other administrations may exceed this in talents, patriotism, and honesty, but certainly in audacity, in effrontery, it stands without a parallel!

The Secretary has brought forward many and grievous charges against the Bank. I will not condescend to notice them—it is the conduct of the Secretary, and not that of the Bank, which is immediately under examination, and he has no right to drag the conduct of the Bank into the issue, beyond its operations in regard to the deposits. To that extent I am prepared to examine his allegations against it; but beyond that he has no right—no, not the least—to arraign the conduct of the Bank; and I, for one, will not, by noticing his charges beyond that point, sanction his authority to call its conduct in question. But let the point in issue be determined, and I, as far as my voice extends, will give to those who desire it the means of the freest and most unlimited inquiry into its conduct. I am no partizan of the Bank—I am connected with it in no way, by monied or political ties. I might say, with truth, that the Bank owes as much to me as to any other individual in the country; and I might even add that, had it not been for my efforts, it would not have been chartered. Standing in this relation to the institution, a high sense of delicacy—a regard to independence and character, has restrained me from any connexion with the institution whatever, except some trifling accommodations, in the way of ordinary business, which were not of the

slightest importance either to the Bank or myself.

But while I shall not condescend to notice the charges of the Secretary against the Bank, beyond the extent which I have stated, a sense of duty to the institution, and regard to the part which I took in its creation, compels me to notice two allegations against it which have fallen from another quarter. It is said that the Bank had no agency, or at least efficient agency, in the restoration of specie payment in 1817, and that it had failed to furnish the country with a uniform and sound currency, as had been promised at its creation. Both of these allegations I pronounce to be without just foundation. To enter into a minute examination of them, would carry me too far from the subject, and I must content myself with saying, that having been on the political stage without interruption, from that day to this—having been an attentive observer of the question of the currency throughout the whole period—that the Bank has been an indispensable agent in the restoration of specie payments; that, without it, the restoration could not have been effected short of the utter prostration of all the monied institutions of the country, and an entire depreciation of Bank paper; and that it has not only restored specie payment, but has given a currency far more uniform, between the extremes of the country, than was anticipated or even dreamed of at the time of its creation. I will say for myself, that I did not believe, at that time, that the exchange between the Atlantic and the West would be brought lower than two and a half per cent.—the estimated expense then, including insurance and loss of time, of transporting specie between the two points. How much it was below the anticipated point, I need not state; the whole commercial world knows that it was not a fourth part at the time of the removal of the deposits.

But to return from this digression. Though I will not notice the charges of the Secretary for the reasons already stated, I will take the liberty of propounding to those who support them on this floor, a few plain questions. If there be in banking institutions an inherent tendency so strong to abuse and corruption as they contend—if, in consequence of this tendency, the bank of the United States be guilty of the enormous charges and corruptions alleged, notwithstanding its responsibility to the Government and our control over it, what is to be expected from irresponsible league banks, as called by the Senator from Kentucky, (Mr CLAY,) over which we can have no legal control? If our power of renewing

the charter of the Bank of the United States—if our right to vacate the charter by *scire facias*, in case of misconduct—if the influence which the appointment of five Government Directors gives us; and, finally, if the power which we have of appointing committees to examine into its condition, are not sufficient to hold the institution in check; if, in spite of all these, it has, from the innate corruption of such institutions, been guilty of the enormous abuses and crimes charged against it, what may we not expect from the associated banks, the favorites of the Treasury, over the renewal of whose charter the Government has no power; against which it can issue no *scire facias*, in whose direction it has not a single individual and into whose conduct Congress can appoint no committee to look? With these checks all withdrawn, what will be the condition of the public funds.

I, said Mr. CALHOUN, stated in the outset of my remarks, that, as broad as was the power which the Secretary had assumed in relation to the deposits, there was a portion of the transaction of a highly important character, to which he has not alluded, and in relation to which he has not even attempted a justification. I will now proceed to make good this assertion to the letter.

There is a material difference between *withholding* money from going into the bank, and *withdrawing* it after it has been placed there. The former is authorized in the manner which I have stated, under the sixteenth section, which directs, as has been frequently stated, that the public money shall be deposited in the bank, unless otherwise ordered by the Secretary of the Treasury. But neither that section, nor any portion of the act incorporating the bank, nor, in truth, any other act, gives the Secretary any authority, of himself, to *withdraw* public money deposited in the bank. There is, I repeat, a material difference between *withholding* public money from deposit and *withdrawing* it. When paid into the place designated by law as the deposite of the public money, it passes to the credit of the Treasurer, and then is in the Treasury of the United States, where it is placed under the protection of the Constitution itself, and from which, by an express provision of the Constitution, it can only be withdrawn by an appropriation made by law. So careful were the framers of the act of 1816 to leave nothing to implication, that express authority is given to the Secretary of the Treasury, in the fifteenth section, to transfer the

deposits from one place to another, for the convenience of disbursements; but which, by a strange perversion, is now attempted to be so construed as to confer on the Secretary the power to withdraw the money from the deposite, and to loan it to favorite State banks.--I express myself too favorably, I should say give--(they pay no interest; with a view to sustain their credits, or enlarge their profits—a power, not only far beyond the Secretary, but which Congress itself could not exercise without a flagrant breach of the Constitution. But, it is said, in answer to these views, that money paid in deposite into the bank, as directed by law, is not in the Treasury. I will not stop, said Mr. C., to reply to such an objection. If it be not in the treasury, where is the Treasury? If it be not money in the Treasury, where is the money annually reported to be in the Treasury? Where the eight or nine millions which, by the annual report of the Secretary, is said to be now in the Treasury? Are we to understand that none of this money is, in truth, in the Treasury?—that it is floating about at large, subject to be disposed of—to be given away, at the will of the Executive, to favorites and partisans? So it would seem; for it appears, by a correspondence between the Treasurer and the Cashier of the bank, derived through the bank, (the Secretary not deeming it worth while to give the slightest information of the transaction, as if a matter of course,) that he has drawn out two millions and a quarter of the public money, without appropriation, and distributed it at pleasure among his favorites!

But it is attempted to vindicate the conduct of the Secretary on the ground of precedent. I will not stop to notice whether the cases cited are in point; nor will I avail myself of the great and striking advantage that I might have on the question of precedent: this case stands alone and distinct from all others. There is none similar to it in magnitude and importance. I waive all that; I place myself on higher grounds—I stand on the immovable principle that, on a question of law and Constitution, in a deliberative assembly, there is no room—no place for precedents. To admit them would be to make the *violation of to-day the law and Constitution of to-morrow; and to substitute in the place of the written and sacred will of the people and the legislature, the infraction of those charged with the execution of the law.* Such, in my opinion, is the relative force of law and constitution on one side, as compared with precedents on the other. View-

ed in a different light, not in reference to the law or constitution, but to the conduct of the officer, I am disposed to give rather more weight to precedents, when the question relates to an excuse or apology for the officer, in case of infraction. If the infraction be a trivial one, in a case not calculated to excite attention, an officer might fairly excuse himself on the ground of precedent; but in one like this, of the utmost magnitude, involving the highest interests and most important principles, where the attention of the officer must be aroused to a most careful examination, he cannot avail himself of the plea of precedent to excuse his conduct.—It is a case where false precedents are to be corrected and not followed. An officer ought to be ashamed in such a case, to attempt to vindicate his conduct on a charge of violating law or constitution by pleading precedent. The principle in such case is obvious. If the Secretary's right to withdraw public money from the Treasury be clear, he has no need of precedent to vindicate him. If not, he ought not, in a case of so much magnitude, to have acted.

I have not, said Mr. CALHOUN, touched a question which has had so prominent a part in the debate, whether the withholding the deposits was the act of the Secretary or the President. Under my view of the subject, the question is not of the slightest importance. It is equally unauthorized and illegal, whether done by President or Secretary; but, as the question has been agitated, and as my views do not entirely correspond on this point with those advocating the side which I do, I deem it due to frankness to express my sentiments.

I have no doubt that the President removed the former Secretary, and placed the present in his place, expressly with a view to the removal of the deposits. I am equally clear, under all the circumstances of the case, that the President's conduct is wholly indefensible; and, among other objections, I fear he had in view, in the removal, an object eminently dangerous and unconstitutional—to give an advantage to his veto, never intended by the Constitution—a power intended as a shield, to protect the Executive against the encroachment of the Legislative department—to maintain the *present state of things* against dangerous or hasty innovation, but which, I fear, is, in this case, intended as a sword, to defend the usurpation of the Executive. I say I fear, for although the circumstance of this case leads to a just appre-

hension that such is the intention, I will not permit myself to assert that such is the fact—that so lawless and unconstitutional an object is contemplated by the President, till his act shall compel me to believe to the contrary. But while I thus severely condemn the conduct of the President in removing the former Secretary and appointing the present, I must say, that in my opinion, it is a case of the *abuse* and not of the *usurpation* of power. I cannot doubt that the President has, under the Constitution, the right of removal from office: nor can I doubt that the power of removal, wherever it exists, does, from necessity, involve the power of general supervision; nor can I doubt that it might be constitutionally exercised in reference to the deposits. Reverse the present case—suppose the late Secretary, instead of being against, had been in favor of the removal, and that the President, instead of for, had been against it, deeming the removal not only inexpedient, but, under circumstances, illegal; would any man doubt, that under such circumstances, he had a right to remove his Secretary, if it were the only means of preventing the removal of the deposits? Nay, would it not be his indispensable duty to have removed him? and, had he not, would not he have been universally and justly held responsible?

I have now (said Mr. C.) offered all the remarks I intended in reference to the deposit question; and, on reviewing the whole ground, I must say, that the Secretary, in removing the deposits, has clearly transcended his power; that he has violated the contract between the Bank and the United States; that, in so doing, he has deeply injured that large and respectable portion of our citizens who have been invited, on the faith of the Government, to invest their property in the institution; while, at the same time, he has deeply injured the public, in its character of stockholder; and, finally, that he has inflicted a deep wound on the public faith. To this last, I attribute the present embarrassment in the currency, which has so injuriously affected all the great interests of the country. The currency of the country is the credit of the country—credit in every shape, public and private; credit, not only in the shape of paper, but that of faith and confidence between man and man; through the agency of which, in all its forms, the great and mighty exchanges of this commercial country, at home and abroad, are effected. To inflict a

wound any where, particularly on the public faith, is to embarrass all the channels of currency and exchange; and it is to this, and not to the withdrawing the few millions of dollars from circulation, that I attribute the present monied embarrassment. Did I believe to the contrary—if I thought that any great and permanent distress would of itself result from winding up in a regular and legal manner the present or any other Bank of the United States, I would deem it an evidence of the dangerous power of the institution, and, to that extent, an argument against its existence; but, as it is, I regard the present embarrassment not as an argument against the Bank, but an argument against the lawless and wanton exercise of power on the part of the Executive—an embarrassment which is likely to continue long, if the deposits be not restored. The Banks which have received them, at the expense of the public faith, and in violation of law, will never be permitted to enjoy their spoils in quiet. No one who regards the subject in the light in which I do, can ever give his sanction to any law intended to protect or carry through the present illegal arrangement; on the contrary, all such must feel bound to wage perpetual war against an usurpation of power so flagrant as that which controls the present deposits of the public money. If I stand alone, (said Mr. CALHOUN,) I at least will continue to maintain the contest, so long as I remain in public life.

As important (said Mr. C.) as I consider the question of the deposits, in all its bearings, public and private, it is one on the surface—a mere pretext to another, and one greatly more important, which lies beneath, and which must be taken into consideration, to understand correctly all the circumstances attending this extraordinary transaction. It is felt and acknowledged on all sides, that there is another and a deeper question, which has excited the profound sensation and alarm which pervades the country.

If we are to believe what we hear from the advocates of the administration, we would believe at one time that the real question was, Bank or no Bank; at another, that the question was between the United States Bank and the State Banks; and, finally, that it was a struggle on the part of the administration to guard and defend the rights of the States against the encroachments of the General Government. The administration the guardians and defenders of

the rights of the States! What shall I call it? audacity or hypocrisy? The authors of the Proclamation the guardians and defenders of the rights of the States! The authors of the War Message against a member of this confederacy—the authors of the “bloody bill” the guardians and defenders of the rights of the States! This a struggle for State rights! No, Sir, State rights are no more. The struggle is over for the present. The bill of the last session which vested in the Government the right of judging of the extent of its powers, finally and conclusively, and gave it the right of enforcing its judgments by the sword, destroyed all distinction between delegated and reserved rights; concentrated in the Government the entire power of the system, and prostrated the States as poor and helpless corporations at the foot of this sovereignty.

Nor is it more true that the real question is—Bank or no Bank. Taking the deposit question in the broadest sense; suppose, as it is contended by the friends of the administration, that it involves the question of the renewal of the charter, and consequently the existence of the Bank itself, still the banking system would stand, almost untouched and unimpaired. Four hundred banks would still remain scattered over this wide republic, and on the ruins of the United States Bank, many would rise to be added to the present list. Under this aspect of the subject, the only possible question that could be presented for consideration would be, whether the banking system was more safe, more beneficial, or more constitutional with or without the U. States Bank?

If, said Mr. C., this was a question of Bank or no Bank—if it involved the existence of the banking system, it would indeed be a great question—one of the first magnitude, and, with my present impression, long entertained and daily increasing—I would hesitate—long hesitate, before I would be found under the banner of the system. I have great doubts, if doubts they may be called, as to the soundness and tendency of the whole system, in all its modifications. I have great fears that it will be found hostile to liberty and the advance of civilization—fatally hostile to liberty in our country, where the system exists in its worst and most dangerous form. Of all institutions affecting the great question of the distribution of wealth—a question least explored and the most important of any in the whole range of political economy,

the banking institution has, if not the greatest, among the greatest influence, and I fear, most pernicious influence on the mode of distribution. Were the question really before us, I would not shun the responsibility, as great as it might be, of freely and fully offering my sentiments on these deeply important points; but, as it is, I must content myself with the few remarks which I have thrown out.

What, then, is the real question which now agitates the country? I answer, it is a struggle between the Executive and Legislative departments of the Government—a struggle, not in relation to the existence of the bank, but which, Congress or the President, should have the power to create a bank, and the consequent control over the currency of the country. This is the real question. Let us not deceive ourselves—this league—this association of banks—created by the Executive; bound together by its influence; united in common articles of association, vivified and sustained by receiving the deposits of the public money, and having their notes converted, by being received every where by the Treasury, into the common currency of the country, is, to all intents and purposes, a bank of the United States—the Executive bank of the U. States, as distinguished from that of Congress. However it might fail to perform satisfactorily the useful functions of the Bank of the U. States, as incorporated by law, it would outstrip it—far outstrip it—in all its dangerous qualities, in extending the power, the influence, and the corruption of the Government. It was impossible to conceive any institution more admirably calculated to advance these objects. Not only the selected banks, but the whole banking institutions of the country, and with it the entire money power, for the purpose of speculation, speculation, and corruption, would be placed under the control of the Executive. A system of menaces and promises will be established—of menace to the banks in possession of the deposits, but which might not be entirely subservient to Executive views; and of promise of future favors to those who may not as yet enjoy its favors. Between the two, the banks would be left without influence, honor, or honesty; and a system of speculation and stock-jobbing would commence, unequalled in the annals of our country. I fear they have already commenced—I fear the means which have been put into the hands of the minions of power by the removal of the deposits, and placing them in

the vaults of dependant banks, have extended their cupidity to the public lands, particularly in the south-west, and that to this we must attribute the recent phenomena in that quarter; immense and valuable tracts of land sold at short notice—sales fraudulently postponed to aid the speculators, with which, if I am not misinformed, a name not unknown to this body (Gwin) has performed a prominent part. But I leave this to my vigilant and able friend from Mississippi, (Mr. POINDEXTER,) at the head of the Committee on Public Lands, who, I doubt not, will see justice done to the public. As to stock-jobbing, this new arrangement will open a field which Rothschild himself may envy. It has been found hard work—very hard, no doubt—by the jobbers in stock, who have been engaged in attempts to raise or depress the price of U. S. Bank stock; but no work will be more easy than to raise or depress the price of the stock of the selected banks, at the pleasure of the Executive. Nothing more will be required than to give or withhold deposits—to draw, or abstain from drawing warrants—to pamper them at one time, and starve them at another.—Those who would be in the secret, and who would know when to buy and when to sell, would have the means of realizing, by dealing in the stocks, whatever fortune they might please.

So long as the question is one between a Bank of the United States incorporated by Congress and that system of banks which has been created by the will of the Executive, it is an insult to the understanding to discourse on the pernicious tendency and constitutionality of the Bank of the United States. To bring up that question fairly and legitimately, you must go one step farther—you must divorce the Government and the banking system. You must refuse all connexion with Banks. You must neither receive nor pay away bank notes; you must go back to the old system of the strong box, and of gold and silver. If you have a right to receive bank notes at all—to treat them as money by receiving them in your dues, or paying them away to creditors, you have a right to create a bank. Whatever the Government receives and treats as money, is money; and, if it be money, then they have the right, under the Constitution, to regulate it. Nay, they are bound by a high obligation to adopt the most efficient means, according to the nature of that which they have recognized as money, to give it the utmost stability and uniformity of value. And if it be

the shape of bank notes, the most efficient means of giving those qualities, is a Bank of the U. States, incorporated by Congress. Unless you give the highest practical uniformity to the value of bank notes—so long as you receive them in your dues, and treat them as money, you violate that provision of the Constitution which provides that taxation shall be uniform throughout the United States. There is no other alternative, I repeat, you must divorce the Government entirely from the banking system, or, if not, you are bound to incorporate a bank as the only safe and efficient means of giving stability and uniformity to the currency. And should the deposits not be restored, and the present illegal and unconstitutional connexion between the Executive and the league of banks continue, I shall feel it my duty, if no one else moves, to introduce a measure to prohibit Government from receiving or touching bank notes in any shape whatever, as the only means left of giving safety and stability to the currency, and saving the country from corruption and ruin.

Viewing the question in its true light, as a struggle on the part of the Executive to seize on the power of Congress, and to unite in the President the power of the sword and the purse, the Senator from Kentucky (Mr. CLAY) said, truly, and let me add, philosophically, that we are in the midst of a revolution. Yes, the very existence of free governments rests on the *proper distribution and organization of power*; and to destroy this distribution, and thereby concentrate power in any one of the departments, is to effect a revolution; but, while I agree with the Senator, that we are in the midst of revolution, I cannot agree with him as to the time at which it commenced, or the point to which it has progressed. Looking to the distribution of the powers of the General Government—into the Legislative, Executive, and Judicial Departments—and confining his views to the encroachment of the Executive upon the Legislative, he dates the commencement of the revolution but sixty days previous to the meeting of the present Congress. I, said Mr. C., take a wider range, and date it from an earlier period. Besides the distribution among the Departments of the General Government, there belongs to our system another, and a far more important division or distribution of power, that between the States and the General Government—the reserved and delegated rights, the maintenance of which is

still more essential to the preservation of our institutions. Taking this wide review of our political system, the revolution in the midst of which we are, began, not as supposed by the Senator from Kentucky, shortly before the commencement of the present session, but many years ago, with the commencement of the restrictive system, and terminated its first stage with the passage of the force bill of the last session, which absorbed all the rights and sovereignty of the States, and consolidated them in this Government. Whilst this process was going on, of absorbing the reserved powers of the States, on the part of the General Government, another commenced, of concentrating, in the Executive, the powers of the other two, the Legislative and Judicial Departments of the Government, which constitutes the second stage of the revolution, in which we have advanced almost to the termination.

The Senator from Kentucky, in connexion with this part of his argument, read a striking passage from one of the most pleasing and instructive writers in any language, (Plutarch,) the description of Caesar forcing himself, sword in hand, into the treasury of the Roman Commonwealth. We are at the same stage of our political revolution, and the analogy between the two cases is complete, varied only by the character of the actors and the circumstances of the times. That was a case of an intrepid and bold warrior, as an open plunderer, seizing forcibly the treasury of the country, which, in that Republic, as well as ours, was confided to the custody of the legislative department of the Government. The actors in our case are of a different character—artful, cunning, and corrupt politicians, and not fearless warriors. They have entered the treasury, not sword in hand, as public plunderers, but with the false keys of sophistry, as pilferers, under the silence of midnight. The motive and object are the same, varied in like manner, by character and circumstances. "With money I will get men, and with men, money," was the maxim of the Roman plunderer. With money we will get partizans, with partizans votes, and with votes money, is the maxim of our public pilferers. With men and money, Caesar struck down Roman liberty, at the fatal battle of Phillippi, never to rise again; from which disastrous hour, all the powers of the Roman Republic were consolidated in the person of Caesar, and perpetuated in his line. With money and corrupt partizans, a great effort is now

making to choke and stifle the voice of American liberty, through all its natural organs; by corrupting the press; by overawing the other departments; and, finally, by setting up a new and polluted organ, composed of office holders and corrupt partizans, under the name of a national convention, which, counterfeiting the voice of the people, will, if not resisted, in their name dictate the *succession*; when the deed will be done—the revolution be completed—and all the powers of our Republic, in like manner, be consolidated in the President, and perpetuated by his dictation.

The Senator from Kentucky, (Mr. C.) anticipates with confidence that the small party who were denounced at the last session as traitors and disunionists, will be found, on this trying occasion, standing in the front rank, and manfully resisting the advance of despotic power. I, said Mr. CALHOUN, heard the anticipation with pleasure, not on account of the compliment which it implied, but the evidence which it affords that the cloud which has been so industriously thrown over the character and motive of that small, but patriotic party, begins to be dissipated. The Senator hazarded nothing in the prediction. That party is the determined, the fixed, and sworn enemy to usurpation, come from what quarter and under what form it may—whether from the Executive, upon the other departments of this Government, or from this Government, on the sovereignty and rights of the States. The resolution and fortitude with which it maintained its position at the last session, under so many difficulties and dangers, in defence of the States against the encroachments of the General Government, furnished evidence, not to be mistaken, that that party in the present momentous struggle, would be found arrayed in defence of the rights of Congress against the encroachments of the President. And let me tell the Senator from Kentucky, said Mr. C., that, if the present struggle against Executive usurpation be successful, it will be owing to the success, with which we, the nullifiers—I am not afraid of the word—maintained the rights of the States against the encroachment of the General Government at the last session.

A very few words will place this point beyond controversy. To the interposition of the State of South Carolina, we are indebted for the adjustment of the tariff question; without it, all the influence of the Senator from Kentucky, over the manufacturing interest, great as it

deservedly is, would have been wholly incompetent, if he had even thought proper to exert it, to adjust the question. The attempt would have prostrated him, and those who acted with him, and not the system. It was the separate action of the State that gave him the place to stand upon; created the necessity for the adjustment, and disposed the minds of all to compromise. Now, I put the solemn question to all who hear me, if the tariff had not then been adjusted—if it was now an open question—what hope of successful resistance against the usurpations of the Executive, on the part of this or any other branch of the Government, could be entertained? Let it not be said, that this is the result of accident—of an unforeseen contingency. It was clearly perceived, and openly stated, that no successful resistance could be made to the corruption and encroachments of the Executive, while the tariff question remained open—while it separated the north from the south, and wasted the energy of the honest and patriotic portions of the community against each other, the joint effort of which is indispensably necessary to expel those from authority, who are converting the entire powers of Government into a corrupt electioneering machine; and that, without separate State interposition, the adjustment was impossible. The truth of this position rests not upon the accidental state of things, but on a profound principle growing out of the nature of Government and party struggles in a free State. History and reflection teach us, that when great interests come into conflict and the passions and the prejudices of men are roused, such struggles can never be composed by the influence of any individuals, however great; and if there be not, somewhere in the system, some high constitutional power to arrest their progress, and compel the parties to adjust the difference, they go on till the State falls by corruption or violence.

I will, said Mr. C., venture to add to these remarks another, in connexion with the point under consideration, not less true. We are not only indebted to the cause which I have stated, for our present strength in this body against the present usurpation of the Executive, but if the adjustment of the tariff had stood alone, as it ought to have done, without the odious bill which accompanied it,—if those who led in the compromise had joined the State Right party in their resistance to that unconstitutional measure, and thrown the responsibility on its real authors,

the administration, their party would have been so prostrated throughout the entire South, and their power, in consequence, so reduced, that they would not have dared to attempt the present measure; or, if they had, they would have been broke and defeated.

Were I, said Mr. C., to select the case best calculated to illustrate the necessity of resisting usurpation at the very commencement, and to prove how difficult it is to resist it in any subsequent stage, if not met at first, I would select this very case. What, he asked, is the cause of the present usurpation of power on the part of the Executive?—What the motive?—the temptation, which has induced them to seize on the deposits? What, but the large surplus revenue? the eight or ten millions in the public Treasury beyond the wants of the Government? And what has put so large an amount of money in the Treasury, when not needed? I answer, the protective system—that system which graduated duties, not in reference to the wants of the Government, but in reference to the importunities and demands of the manufacturers, and which poured millions of dollars into the Treasury beyond the most profuse demands and even the extravagance of the Government—taken—unlawfully taken, from the pockets of those who honestly made it. I hold that those who make, are entitled to what they make against all the world, except the Government; and against it, except to the extent of its legitimate and constitutional wants; and that, for the Government to take one cent more is robbery. In violation of this sacred principle *Congress first* removed the deposits into the public Treasury, from the pockets of those who made it, where they were rightfully placed by all laws, human and divine. The Executive, in his turn, following the example, has taken them from that deposite, and distributed them among favorite and partisan banks. The means used have been the same in both cases. The constitution gives to Congress the power to lay duties with a view to revenue. This power, without regarding the object for which it was intended, forgetting that it was a great trust power, necessarily limited, by the very nature of such powers, to the subject and the object of the trust, was perverted to a use never intended, that of protecting the industry of one portion of the country at the expense of another; and, under this false interpretation, the money was transferred from its natural and just deposite, the pockets of those who made it, into the public Treasury, as I have stated. In this too, the executive followed the example of Congress.

By the magic construction of a few simple words—"unless otherwise ordered,"—intended to confer on the Secretary of the Treasury a limited power—to give additional security to the public deposits, he has, in like manner, perverted this power, and made it the instrument, by similar sophistry, of drawing the money from the Treasury, and bestowing it, as I have stated, on favorite and partisan banks. Would to God, said Mr. C., would to God I could reverse the whole of this nefarious operation, and terminate the controversy by returning the money to the pockets of the honest and industrious citizens, by the sweat of whose brows it was made, with whom only it can be rightfully deposited. But as this cannot be done, I must content myself by giving a vote to return it to the public Treasury, where it was ordered to be deposited by an act of the legislature.

There is another aspect, said Mr. C., in which this subject may be viewed. We all remember how early the question of the surplus revenue began to agitate the country. At a very early period, a Senator from New Jersey, (Mr. Dickerson), presented his scheme for disposing of it by distributing it among the States. The first message of the President recommended a similar project, which was followed up by a movement on the part of the Legislature of New York, and I believe some of the other States. The public attention was aroused—the scheme scrutinized,—its gross unconstitutionality and injustice, and its dangerous tendency,—its tendency to absorb the power and existence of the States, were clearly perceived and denounced. The denunciation was too deep to be resisted, and the scheme was abandoned. What have we now in lieu of it? What is the present scheme but a distribution of the surplus revenue? A distribution at the sole will and pleasure of the Executive; a distribution to favorite banks, and through them, in the shape of discounts and loans, to corrupt partizans, as the means of increasing political influence?

We have, said Mr. C., arrived at a fearful crisis. Things cannot long remain as they are. It behoves all who love their country—who have affection for their offspring, or who have any stake in our institutions, to pause and reflect. Confidence is daily withdrawing from the General Government. Alienation is hourly going on. These will necessarily create a state of things inimical to the existence of our institutions, and, if not speedily arrested, convulsions must follow, and then comes dissolution or despotism, when a thick cloud will be thrown over the cause of liberty and the future prospects of our country.

REMARKS
OF
MR. WEBSTER,
ON
THE REMOVAL OF THE DEPOSITES,
AND ON THE SUBJECT OF
A NATIONAL BANK:

DELIVERED

In the Senate of the United States,

JANUARY, 1834.

*Webster's Speech on Expunging the
Senate Resolution of 1834 from the
Journal will be found in Finance
 pamphlets, vol. 1.*

WASHINGTON:

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1834.



REMARKS.



On the 20th of January, Mr. WEBSTER presented the following resolutions passed at a meeting in Boston:

1. *Resolved*, As the sense of this meeting, that the business community of this city, vicinity, and Commonwealth, are in a high state of prosperity, independently of those embarrassments in the money market, consequent upon the deranged state of the financial and banking operations of the country.

2. *Resolved*, That all the great branches of industry throughout the Union have, for three years past, been in a highly prosperous condition, till within the period of a few months.

3. *Resolved*, That the products of agriculture have been unusually abundant the past year; that prices at home and abroad are higher than usual, and likely to be maintained under the ordinary circumstances of the money market.

4. *Resolved*, That the currency, issued by the banks of this State, inasmuch as their notes in circulation are not more than one-fourth of their capitals, and the securities for their loans being deemed good, is in sound condition.

5. *Resolved*, That the currency of the Union at large is also in a safe and sound state, and that any sudden and undue contraction of bank issues, which may have been lately made, has principally arisen, not from over-issues of paper, but from the disturbed state of our financial and money concerns, incident to the altered condition of the National Bank.

6. *Resolved*, That there is the usual quantity of specie in the country, and that foreign exchanges being greatly in our favor, there is no reason to apprehend any drain of the precious metals; but, on the contrary, we may naturally look for an influx of them.

7. *Resolved*, That the local banks now employed by Government, however well disposed to accommodate the public, cannot, with their small capitals, limited credit, and scattered resources, and, above all, their entire want of concert and unity of action, afford that aid to the agricultural classes in the transmission of their products, from the places of growth to the places of export and distribution, which they have heretofore received from the National Bank, but which is now, in part, necessarily withdrawn from them by that institution, in consequence of its change of position in regard to the Government.

8. *Resolved*, That the evils arising from the scarcity and high price in money fall with most severity on the industrious and middling classes of society, who are compelled to make sacrifices of property to provide for their daily payments, while the retired capitalists are not only exempt from such a loss, but derive a benefit from the increased value of money.

9. *Resolved*, That a continuance of the existing embarrassments in business, arising from the deranged state of our money concerns, will not only check the future operations of the farmer, merchant, manufacturer, and mechanic, and consequently lessen the employment and wages of the laborer, but will also prove extremely injurious to those great and useful internal improvements, which must soon be arrested in their progress, if the pressure on the money market is not relieved; and that all property now in existence will become depreciated to a degree that may prove utterly ruinous to a portion of the most enterprising and useful members of the community.

10. *Resolved*, That the amount of currency necessary to effect the ordinary payments in business, though utterly insignificant compared with the wealth of the nation, yet when viewed as the measure of value of every species of property, as the basis of all contracts, and the medium by which the constant interchanges of property are made, must be considered of immense importance; and that any sudden and undue expansion or contraction of the amount required for the ordinary wants of the country, from

whatever causes it may proceed, will necessarily tend to the most calamitous results.

11. *Resolved*, That the existing embarrassments and panic among all classes of the business community, and which threaten, if not soon remedied, the most serious evils, may be attributed, first, to a spirit of speculation and over-trading—the usual effects of long continued prosperity; and secondly, to the transferring the collection of the national revenue from the National Bank to the State banks, and thereby paralyzing, in some degree, the action of that institution, by whose large capital, solid credit, and extensive resources, the business operations of the whole country have been sustained and promoted.

12. *Resolved*, That, in the opinion of this meeting, a restoration of the National Bank to the relation in which it stood to the Government prior to the removal of the deposits, and allowing the public moneys already in possession of the local banks to remain there, till required by the Government, would, in a great measure, relieve the country from the embarrassments, arising from a scarcity and derangement of currency; and, above all, allay that distrust, agitation, and alarm, which is more difficult to overcome, and more dangerous in its tendencies if not overcome, than the actual inconveniences and losses usually incident to an insufficient or deranged currency.

13. *Resolved*, That, whatever course may be adopted by Congress, in relation to matters now in dispute between the Government and the National Bank, it is of vital importance to the great interests of the nation that there should be a prompt decision, so necessary for the re-establishment of that confidence, throughout the whole country, which has been greatly impaired by the uncertain and unsettled state of our financial and money concerns.

14. *Resolved*, That the foregoing resolutions have no relation to any party or political purposes, beyond the direct object manifest on the face of them; that the meeting comprises persons of all classes and professions, entertaining various and opposite opinions upon the question of re-chartering the existing National Bank, or of chartering a new one in lieu of it; that few of them have any pecuniary interest involved in the fate of that institution; that they have met together, on this occasion, as citizens, having one common end in view, and with no other purpose or desire than to aid in the re-establishment of that credit and confidence among all classes, so essential to our present safety and our future prosperity.

15. *Resolved*, That a copy of the foregoing resolutions be transmitted, by the Chairman of this meeting, to each of the Senators and Representatives of this State in Congress, as expressive of the opinions and feelings of a portion of their constituents upon the important matters therein referred to; and earnestly requesting them to use their best exertions to effect the objects which this meeting has in view; and that they also be requested to lay a copy of the same before both branches of our National Legislature.

16. *Resolved*, That a committee, consisting of Henry Lee, George Bond, Jonas B. Brown, Henry F. Baker, James T. Austin, George Darracott, and Charles Wells, be appointed to take such other measures, in furtherance of the objects of this meeting, as they shall deem proper and expedient.

CHARLES WELLS, *Chairman*.

HENRY F. BAKER, }
BENJAMIN T. REED, } *Secretaries*.

The resolutions having been read by the Secretary of the Senate,

Mr. WEBSTER said, he wished to bear unequivocal and decided testimony to the respectability, intelligence, and disinterestedness of the long list of gentlemen, at whose instance this meeting was assembled. The meeting, said Mr. W., was connected with no party purpose whatever. It had an object more sober, more cogent, more interesting to the whole community, than mere party questions. The Senate will perceive, in the tone of these resolutions, no intent to exaggerate or inflame; no disposition to get up excitement or to spread alarm. I hope the restrained and serious manner, the moderation of temper, and the exemplary candor, of these resolutions, in connexion with the plain truths which they contain, will give them just weight with the Senate. I assure you, sir, the members composing this meeting were neither

capitalists, nor speculators, nor alarmists. They are merchants, traders, mechanics, artisans, and others engaged in the active business of life. They are of the muscular portion of society; and they desire to lay before Congress an evil, which they feel to press sorely on their occupations, their earnings, their labor, and their property; and to express their conscientious conviction of the causes of that evil. If intelligence, if pure intention, if deep and widespread connexion with business in its various branches, if thorough practical knowledge and experience, if inseparable union between their own prosperity and the prosperity of the whole country, authorize men to speak, and give them a right to be heard, the sentiments of this meeting ought to make an impression. For one, sir, I entirely concur in all their opinions. I adopt their first fourteen resolutions, without alteration or qualification, as setting forth truly the present state of things, stating truly its causes, and pointing to the true remedy.

Mr. President, now that I am speaking, I will use the opportunity to say a few words which I intended to say in the course of the morning, on the coming up of the resolution which now lies on the table; but which are as applicable to this occasion as to that.

An opportunity may, perhaps, be hereafter afforded me of discussing the reasons given by the Secretary for the very important measure adopted by him, in removing the deposits. But as I know not how near that time may be, I desire, in the mean while, to make my opinions known, without reserve, on the present state of the country. Without intending to discuss any thing at present, I feel it my duty, nevertheless, to let my sentiments and my convictions be understood. In the first place, then, sir, I agree with those who think that there is a severe pressure in the money market, and very serious embarrassment felt in all branches of the national industry. I think this is not local, but general—general, at least, over every part of the country where the cause has yet begun to operate, and sure to become not only general, but universal, as the operation of the cause shall spread. If evidence be wanted, in addition to all that is told us by those who know, the high rate of interest, now at 12 per cent. or higher, where it was hardly 6 last September; the depression of all stocks, some ten, some twenty, some thirty per cent.; and the low prices of commodities, are proofs abundantly sufficient to show the existence of the pressure. But, sir, labor, that most extensive of all interests—American manual labor—feels, or will feel, the shock more sensibly, far more sensibly, than capital or property of any kind. Public works have stopped, or must stop; great private undertakings, employing many hands, have ceased, and others must cease. A great lowering of the rates of wages, as well as a depreciation of property, is the inevitable consequence of causes now in full operation. Serious embarrassments in all branches of business do certainly exist.

I am of opinion, therefore, that there is, undoubtedly, a very severe pressure on the community, which Congress ought to relieve if it can; and that this pressure is not an instance of the ordinary re-action, or the ebbing and flowing of commercial affairs; but is an extraordinary case, produced by an extraordinary cause.

In the next place, sir, I agree entirely with the 11th Boston resolution, as to the causes of this embarrassment. We were in a state of high prosperity, commercial and agricultural. Every branch of business, was pushed far, and the credit as well as the capital of the country employed to near its utmost limits. In this state of things, some degree of overtrading

doubtless took place, which, however, if nothing else had occurred, would have been seasonably corrected by the ordinary and necessary operation of things. But, on this palmy state of things, the late measure of the Secretary fell, and has acted on it with powerful and lamentable effect.

And I think, sir, that such a cause is entirely adequate to produce the effect, that it is wholly natural, and that it ought to have been foreseen that it would produce exactly such consequences. Those must have looked at the surface of things only, as it seems to me, who thought otherwise, and who expected that such an operation could be gone through with, without producing a very serious shock.

The Treasury, in a very short time, has withdrawn from the Bank 8,000,000 dollars, within a fraction. This call, of course, the Bank has been obliged to provide for, and could not provide for without more or less inconvenience to the public. The mere withdrawing of so large a sum from hands actually holding and using it, and the transferring of it, through the bank collecting, and through another bank loaning it, if it can loan it, into other hands, is itself an operation which, if conducted suddenly, must produce considerable inconvenience. And this is all that the Secretary seems to have anticipated. But this is not the one-hundredth part of the whole evil. The great evil arises from the new attitude in which the Government places itself towards the Bank. Every thing is now in a false position. The Government, the Bank of the United States, the State banks, are all out of place. They are deranged and separated, and jostling against each other. Instead of amity, reliance, and mutual succor, relations of jealousy, of distrust, of hostility even, are springing up between these parties. All act on the defensive; each looks out for itself; and the public interest is crushed between the upper and the nether millstone. All this should have been foreseen. It is idle to say that these evils might have been prevented by the Bank, if it had exerted itself to prevent them. That is a mere matter of opinion; it may be true, or it may not; but it was the business of those who proposed the removal of the deposits, to ask themselves how it was probable the Bank would act, when they should attack it, assail its credit, and allege the violation by it of its charter; and thus compel it to take an attitude, at least, of stern defence. The community have certainly a right to hold those answerable, who have unnecessarily got into this quarrel with the Bank, and thereby occasioned the evil, let the conduct of the Bank, in the course of the controversy, be what it may.

In my opinion, sir, the great source of the evil is the shock which the measure has given to *confidence* in the commercial world. The credit of the whole system of the currency of the country seems shaken. The State banks have lost credit, and lost confidence. They have suffered vastly more than the Bank of the United States itself, at which the blow was aimed.

The derangement of internal exchanges is one of the most disastrous consequences of the measure. By the origin of its charter, by its unquestioned solidity, by the fact that it was *at home every where*, and in perfect credit every where, the Bank of the United States accomplished the internal exchanges of the country with vast facility, and at an unprecedented cheap rate. The State banks can never perform this equally well; for the reason given in the Boston resolutions, they cannot act with the same concert, the same identity of purpose. Look at the prices current, and see the change in the value of the notes of distant banks in the great cities. Look at the depression of the stocks of the State banks, deposit banks and all. Look

at what must happen the moment the Bank of the United States, in its process of winding up, or to meet any other crisis, shall cease to buy domestic bills, especially in the Southern, Southwestern, and Western markets. Can any man doubt what will be the state of exchange when that takes place? Or can any one doubt its necessary effect on the price of produce? The Bank has purchased bills to the amount of sixty millions a year, as appears by documents heretofore laid before the Senate. A great portion of these, no doubt, was purchased in the South and West, against shipments of the great staples of those quarters of the country. Such is the course of trade. The produce of the Southwest and the South is shipped to the North and the East for sale; and those who ship it draw bills on those to whom it is shipped; and these bills are bought and discounted, or cashed by the Bank. When the Bank shall cease to buy, as it must cease, consequences cannot but be felt, much severer even than those now experienced. This is inevitable. But, sir, I go no further into particular statements. My opinion, I repeat, is, that the present distress is immediately occasioned, beyond all doubt, by the removal of the deposits; and that just such consequences might have been, and ought to have been, foreseen from that measure, as we do now perceive and feel around us.

Sir, I do not believe, nevertheless, that these consequences were foreseen. With such foresight, the deposits, I think, would not have been touched. The measure has operated more deeply and more widely than was expected. We all may find proof of this, in the conversations of every hour. No one, who seeks to acquaint himself with the opinions of men, in and out of Congress, can doubt that, if the act were now to be done, it would receive very little encouragement or support.

Being of opinion that the removal of the deposits has produced the pressure, as its immediate effect, not so much by withdrawing a large sum of money from circulation, as by alarming the confidence of the community, by breaking in on the well-adjusted relations of the Government and the Bank, I agree again with the Boston resolutions, that the natural remedy is a restoration of the relation in which the Bank has heretofore stood to Government.

I agree, sir, that this question ought to be settled, and to be settled soon. And yet, if it be decided that the present state of things shall exist—if it be the determination of Congress to do nothing in order to put an end to the unnatural, distrustful, half belligerent, present condition of the Government and the Bank, I do not look for any great relief to the community, or any early quieting of the public agitation. On the contrary, I expect increased difficulty and increased disquiet.

The public moneys are now out of the Bank of the United States. There is no law regulating their custody, or fixing their place. They are at the disposal of the Secretary of the Treasury, to be kept where he pleases, as he pleases, and the places of their custody to be changed as often as he pleases.

Now, sir, I do not think this is a state of things in which the country is likely to acquiesce.

Mr. President, the restoration of the deposits is a question distinct and by itself. It does not necessarily involve any other question. It stands clear of all controversy and all opinion about re-chartering the Bank, or creating any new Bank.

But I wish, nevertheless, sir, to say a few words of a bearing somewhat beyond that question. Being of opinion that the country is not likely to be satisfied with the present state of things, I have looked earnestly for the suggestion of some prospective measure—some system to be adopted as the future policy of the country. Where are the public moneys hereafter to be kept? In what currency is the revenue hereafter to be collected? What is to take the place of the Bank in our general system? How are we to preserve a uniform currency, a uniform measure of the value of property and the value of labor, a uniform medium of exchange and of payments? How are we to exercise that salutary control over the national currency, which it was the unquestionable purpose of the constitution to devolve on Congress?

These, sir, appear to me to be the momentous questions before us, and which we cannot long keep out of view. In these questions every man in the community, who either has a dollar, or expects to earn one, has a direct interest.

Now, sir, I have heard but four suggestions, or opinions, as to what may hereafter be expected or attempted.

The first is, that things will remain as they are—the Bank be suffered to expire, no new Bank created, and the whole subject left under the control of the Executive Department.

I have already said that I do not believe the country will ever acquiesce in this.

The second suggestion is that which was made by the honorable member from Virginia, [Mr. RIVES.] That honorable member pledges himself to bring forward a proposition, having for its object to do away with the paper system altogether, and to return to an entire metallic currency.

I do not expect, sir, that the honorable member will find much support in such an undertaking. A mere gold and silver currency, and the entire abolition of paper, is not suited to the times. The idea has something a little too antique, too Spartan in it; we might as well think of going to iron at once. If such a result as the gentleman hopes for were even desirable, I regard its attainment as utterly impracticable and hopeless. I lay that scheme, therefore, out of my contemplation.

There is, then, sir, the rechartering of the present Bank; and, lastly, there is the establishment of a new Bank. The first of these received the sanction of the last Congress, but the measure was negatived by the President. The other, the creation of a new bank, has not been brought forward in Congress, but it has excited attention out of doors, and has been proposed in some of the State Legislatures. I observe, sir, that a proposition has been submitted for consideration, by a very intelligent gentleman in the Legislature of Massachusetts, recommending the establishment of a new bank, with the following provisions:

- "1. The capital stock to be fifty millions of dollars.
- "2. The stockholders of the present United States Bank to be permitted to subscribe an amount equal to the stock they now hold.
- "3. The United States to be stockholders to the same extent they now are, and to appoint the same number of directors.
- "4. The subscription to the remaining fifteen millions to be distributed to the several States in proportion to federal numbers, or in some other just and equal ratio; the instalments payable either in cash or in funded stock of the State, bearing interest at five per cent.

"5. No branch of the bank to be established in any State, unless by permission of its Legislature.

"6. The branches of the bank established in the several States to be liable to taxation by those States, respectively, in the same manner, and to the same extent only with their own banks.

"7. Such States as may become subscribers to the stock, to have the right of appointing a certain number, not exceeding one-third, of the directors in the branch of their own State.

"8. Stock not subscribed for under the foregoing provisions, to be open to subscription by individual citizens."

A project, not altogether dissimilar, has been started in the Legislature of Pennsylvania. These proceedings show, at least, a conviction of the necessity of some bank created by Congress. Mr. President, on this subject I have no doubt whatever. I think a national bank proper and necessary. I believe it to be the only practicable remedy for the evils we feel, and the only effectual security against the greater evils which we fear. Not, sir, that there is any magic in the name of a bank; nor that a national bank works by any miracle or mystery. But looking to the state of things actually existing around us—looking to the great number of State banks already created, not less than three hundred and fifty, or four hundred—looking to the vast amount of paper issued by those banks, and considering that, in the very nature of things, this paper must be limited and local in its credit and in its circulation, I confess I see nothing but a well-conducted national institution which is likely to afford any guard against excessive paper issues, or which can furnish a sound and uniform currency to every part of the United States. This, sir, is not only a question of finance, it not only respects the operations of the Treasury, but it rises to the character of a high political question. It respects the currency, the actual money, the measure of value of all property and all labor in the United States. If we needed not a dollar of money in the Treasury, it would still be our solemn and bounden duty to protect this great interest. It respects the exercise of one of the greatest powers, beyond all doubt, conferred on Congress by the constitution. And I hardly know any thing less consistent with our public duty, and our high trust, nor any thing more likely to disturb the harmonious relations of the States, in all affairs of business and life, than for Congress to abandon all care and control over the currency, and to throw the whole money system of the country into the hands of four-and-twenty State Legislatures.

I am, then, sir, for a bank; and am fully persuaded that to that measure the country must come at last.

The question, then, is between the creation of a new Bank, and the rechartering of the present Bank, *with modifications*. I have already referred to the scheme for a new bank, proposed to the Legislature of Massachusetts, by Mr. White. Between such a new bank as his propositions would create, and a rechartering of the present Bank, *with modifications*, there is no very wide, certainly no irreconcilable difference. We cannot, however, create another Bank before March, 1836. This is one reason for preferring a continuance of the present. And, treating the subject as a practical question, and looking to the state of opinion, and to the probability of success, in either attempt, I incline to the opinion that the true course of policy is to propose a recharter of the present Bank, *with modifications*.

As to what these modifications should be, I would only now observe, that

while it may well be inferred, from my known sentiments, that I should not myself deem any alterations in the charter, beyond those proposed by the bill of 1832, highly essential, yet it is a case in which, I am aware, nothing can be effected for the good of the country, without making some approaches to unity of opinion. I think, therefore, that, in the hope of accomplishing an object of so much importance, liberal concessions should be made. I lay out of the case all consideration of any especial claim, or any legal right, of the present stockholders to a renewal of their charter. No such right can be pretended; doubtless none such is pretended. The stockholders must stand like other individuals, and their interest regarded so far, and so far only, as may be judged for the public good. Modifications of the present charter should, I think, be proposed, such as may remove all reasonable grounds of jealousy, in all quarters, whether in States, in other institutions, or in individuals; such, too, as may tend to reconcile the interests of the great city where the Bank is, with those of another great city; and, in short, the question should be met with a sincere disposition to accomplish, by united and friendly counsels, a measure which shall allay fears, and promote confidence, at the same time that it secures to the country a sound, creditable, uniform currency, and to the Government a safe deposite for the public treasure, and an important auxiliary in its financial operations.

I repeat, then, sir, that I am in favor of renewing the charter of the present Bank, *with such alterations as may be expected to meet the general sense of the country.*

And now, Mr. President, to avoid all unfounded inferences, I wish to say, that these suggestions are to be regarded as wholly my own. They are made without the knowledge of the Bank, and with no understanding or concert with any of its friends. I have not understood, indeed, that the Bank itself proposes to apply, at present, for a renewal of its charter. Whether it does so or not, my suggestions are connected with no such or any other purpose of the Bank. I take up the subject on public grounds, purely and exclusively.

And, sir, in order to repel all inferences of another sort, I wish to state, with equal distinctness, that I do not undertake to speak the sentiments of any individual, heretofore opposed to the Bank, or belonging to that class of public men who have generally opposed it. I state my own opinion; if others should concur in them, it will be only because they approve them, and will not be the result of any previous concert or understanding whatever.

Finally, Mr. President, having stated my own opinions, I respectfully ask those who propose to continue the discussion now going on, relative to the deposites, *to let the country see their plan for the final settlement of the present difficulties.* If they are against the Bank, and against all banks, *what do they propose?* That the country will not be satisfied with the present state of things, seems to me certain. *What state of things is to succeed it?* To these questions, I desire to call, earnestly, the attention of the Senate and of the country. The occasion is critical, the interests at stake momentous, and, in my judgment, Congress ought not to adjourn till it shall have passed some law suitable to the exigency, and satisfactory to the country.

On the 30th day of January, Mr. WRIGHT, of New York, presented to the Senate sundry resolutions, passed by the Legislature of New York, approving the removal of the deposites, and disapproving of any Bank of the United States.

In presenting these resolutions, Mr. WRIGHT, among other observations, expressed his decided hostility to the renewal of the charter of the present Bank, or the creation of any other; that he would oppose this Bank upon the ground of its flagrant violations of the high trusts confided to it, but that his objections were of a still deeper and graver character; that he went against this Bank, and against any and every bank to be incorporated by Congress, to be located any where within the twenty-four States.

He expressed a strong opinion, too, that the existing distress arose from the conduct of the Bank in curtailing its loans; and that this curtailment had been made with a view to extort a renewal of its charter from the fears of the people.

As to *what was to be done* under present circumstances, in order to relieve the public pressure, Mr. WRIGHT said, that, speaking for himself only, he would sustain the executive branch of the Government, by all the legal means in his power, in the effort now making to substitute the State banks, instead of the Bank of the United States, as the fiscal agent of the Government.

When Mr. WRIGHT had concluded his remarks, Mr. WEBSTER said,

MR. PRESIDENT: I cannot consent to let the opportunity pass, without a few observations upon what we have now heard. Sir, the remarks of the honorable member from New York are full of the most portentous import. They are words, not of cheering or consolation, but of ill-boding signification; and, as they spread far and wide, in their progress from the capital through the country, they will carry with them, if I mistake not, gloom, apprehension, and dismay. I consider the declarations which the honorable member has now made as expressing the settled purpose of the administration on the great question which so much agitates the country.

[Here Mr. WRIGHT rose, and said that he had given his opinion as an individual, and that he had no authority to speak for the administration.]

Mr. WEBSTER continued. I perfectly well understand, sir, all the gentleman's disclaimers and demurrers. He speaks, to be sure, in his own name only; but, from his political connexions, his station, and his relations, I know full well that he has not, on this occasion, spoken one word which has not been deliberately weighed and considered, by others as well as himself.

He has announced, therefore, to the country two things clearly and intelligibly:

First, that the present system (if system it is to be called) is to remain unaltered. The public moneys are to remain as they now are, in the State banks, and the whole public revenue is hereafter to be collected through the agency of such banks. This is the first point. The gentleman has declared his full and fixed intention to support the administration in this course, and therefore it cannot be doubted that this course has been determined on by the administration. No plan is to be laid before Congress; no system is to be adopted by authority of law. The effect of a law would be to place the public deposits beyond the power of daily change, and beyond the absolute control of the Executive. But no such fixed arrangement is to take place. The whole is to be left completely at the pleasure of the Secretary of the Treasury, who may change the public moneys from place to place, and from bank to bank, as often as he pleases.

The second thing now clearly made known, and of which, indeed, there have been many previous intimations, is, sir, that a great effort is to be made, or

rather an effort already made is to be vigorously renewed and continued, to turn the public complaints against the Bank instead of the Government, and to persuade the people that all their sufferings arise, not from the act of the administration in interfering with the public deposits, but from the conduct of the Bank since that was done. It is to be asserted here, and will be the topic of declamation every where, that, notwithstanding the removal of the deposits, if the Bank had not acted wrong, there would have been no pressure or distress on the country. The object, it is evident, will now be to divert public attention from the conduct of the Secretary, and fix it on that of the Bank. This is the second thing which is to be learned from the speech of the member from New York.

The honorable member has said that new honors are to be gained by the President, from the act which he is about to accomplish; that he is to bring back legislation to its original limits, and to establish the great truth that Congress has no power to create a national bank.

I shall not stop to argue whether Congress can charter a bank in this little District, which shall operate every where throughout the Union, and yet cannot establish one in any of the States. The gentleman seemed to leave that point, as if Congress had such a power. But all must see that if Congress cannot establish a bank in one of the States, with branches in the rest, it would be mere evasion to say that it might establish a bank here, with branches in the several States.

Congress, it is alleged, has not the constitutional power to create a bank! Sir, on what does this power rest, in the opinion of those of us who maintain it? Simply on this: that it is a power which is necessary and proper for the purpose of carrying other powers into effect. A fiscal agent—an auxiliary to the Treasury—a machine—a something, is necessary for the purposes of the Government; and Congress, under the general authority conferred upon it, can create that fiscal agent—that machine—that something—and call it a bank. This is what I contend for; but this the gentleman denies, and says that it is not competent to Congress to create a fiscal agent for itself, but that it may employ, as such agents, institutions not created by itself, but by others, and which are beyond the control of Congress. It is admitted that the agent is necessary, and that Congress has the power to employ it; but it is insisted, nevertheless, that Congress cannot create it, but must take such as is or may be already created. I do not agree to the soundness of this reasoning. Suppose there were no State banks; in that case, as the gentleman admits the necessity of a bank, how can he hold such discordant opinions as to assert that Congress could not, in that case, create one? The agency of a bank is necessary; and, because it is necessary, we may use it, provided others will make a bank for us; but, if they will not, we cannot make one for ourselves, however necessary. This is the proposition.

For myself, I must confess that I am too obtuse to see the distinction between the power of creating a bank for the use of the Government, and the power of taking into its use banks already created. To make and to use, or to make and to hire, must require the same power, in this case, and be either both constitutional, or both equally unconstitutional; except that every consideration of propriety, and expediency, and convenience, requires that Congress should make a bank which will suit its own purposes, answer its own ends, and be subject to its own control, rather than use other banks, which were not created for any such purpose, are not suited to it, and over which Congress can exercise no supervision.

On one or two other points, sir, I wish to say a word. The gentleman differs from me as to the degree of pressure on the country. He admits that in some parts there is some degree of pressure; in large cities he supposes there may be distress; but asserts that every where else the pressure is limited; that every where it is greatly exaggerated; and that it will soon be over. This is mere matter of opinion. It is capable of no precise and absolute proof or disproof. The avenues of knowledge are equally open to all. But I can truly say that I differ from the gentleman on this point most materially and most widely. From the information I have received during the last few weeks, I have every reason to believe that the pressure is very severe, has become very general, and is fast increasing; and I see no chance of its diminution, unless measures of relief shall be adopted by the Government.

But the gentleman has discovered, or thinks he has discovered, motives for the complaints which arise on all sides. It is all but an attempt to bring the administration into disfavor. This alone is the cause that the removal of the deposits is so strongly censured! Sir, the gentleman is mistaken. He does not—at least I think he does not—rightly interpret the signs of the times. The cause of complaint is much deeper and stronger than any mere desire to produce political effect. The gentleman must be aware that, notwithstanding the great vote by which the New York resolutions were carried, and the support given by other proceedings to the removal of the deposits, there are many as ardent friends of the President as are to be found any where, who exceedingly regret and deplore the measure. Sir, on this floor there has been going on, for many weeks, as interesting a debate as has been witnessed for twenty years; and yet I have not heard, among all who have supported the administration, a single Senator say that he approved the removal of the deposits, or was glad it had taken place, until the gentleman from New York spoke. I saw the gentleman from Georgia approach that point, but he shunned direct contact. He complained much of the Bank; he insisted, too, on the power of removal; but I did not hear him say he thought it a wise act. The gentleman from Virginia, [Mr. RIVES,] not now in his seat, also defended the power, and has arraigned the Bank; but has he said that he approved the measure of removal? I have not met with twenty individuals, in or out of Congress, who have expressed an approval of it, among the many hundreds whose opinions I have heard—not twenty who have maintained that it was a wise proceeding; but I have heard individuals of ample fortune declare, nevertheless, that since it was done, they would sacrifice all they possessed rather than not support it, although they wholly disapproved of it. Such is the warmth of party zeal.

Sir, it is a mistake to suppose that the present agitation of the country springs from mere party motives. It is a great mistake. Every body is not a politician. The mind of every man in the country is not occupied with the project of subverting one administration, and setting up another. The gentleman has done great injustice to the people. I know, sir, that great injustice has been done to the memorialists from Boston, whose resolutions I presented some days since, some of whom are very ardent friends of the President, and can have been influenced by no such motive as has been attributed to them.

But, Mr. President, I think I heard yesterday something from the gentleman from Pennsylvania, indicative of an intention to direct the hostility of the country against the Bank, and to ascribe to the Bank, and the Bank alone, the public distress. It was the duty of the Government to have fore-

seen the consequences of the removal of the deposits; and gentlemen have no right first to attack the Bank, charge it with great offences, and thus attempt to shake its credit, and then complain, when the Bank undertakes to defend itself, and to avoid the great risk which must threaten it from the hostility of the Government to its property and character. The Government has placed itself in an extraordinary position, both to the Bank and to the country, by the removal of the deposits: and also to the currency of the country. The bills of the Bank are lawful currency in all payments to Government; yet we see the Executive warring on the credit of this national currency. We have seen the institution assailed, which, by law, was provided to supply the revenue. Is not this a new course? Does the recollection of the gentleman furnish any such instance? What other institution could stand against such hostility? The Bank of England could not stand against it a single hour. The Bank of France would perish at the first breath of such hostility. But the Bank of the United States has sustained its credit under every disadvantage, and has ample means to sustain it to the end. Its credit is in no degree shaken, though its operations are necessarily curtailed. What has the Bank done? The gentleman from New York and the gentleman from Pennsylvania have alleged that it is not because of the removal of the deposits that there is pressure in the country, but because of the conduct of the Bank. The latter gentleman, especially, alleges that the Bank began to curtail its discounts before the removal of the deposits, and at a time when it was only *expected* that they would be removed. Indeed! and did not the Bank, by taking this course, prove that it foresaw correctly what was to take place? and, because it adopted a course of preparation, in order to break the blow which was about to fall upon it, this also is to be added to the grave catalogue of its offences. The Bank, it seems, has curtailed to the amount of nine millions. Has she, indeed? And is not that exactly the amount of deposits which the Government has withdrawn? The Bank, then, has curtailed precisely so much as the Government has drawn away from it. No other Bank in the world could have gone on with so small a curtailment. While public confidence was diminishing all around the Bank, it only curtailed just as much as it lost by the act of the Government. The Bank would be justified, even without the withdrawal of the deposits, in curtailing its discounts gradually, and continuing to do so to the end of its charter, considering the hostility manifested to its further continuance. The Government has refused to recharter it. Its term of existence is approaching; one of the duties which it has to perform is to make its collections; and the process of collection, since it must be slow, ought to be commenced in season. It is, therefore, its duty to begin its curtailments, so as that the process may be gradual.

I hope that I have not been misunderstood in my remarks the other morning. The gentleman from New York has represented me as saying that it is not the removal of the deposits which has caused the public distress. What I said was, that, if the Government had required twice nine millions for its service, the withdrawal of that amount from the Bank, without any interruption of the good understanding between the Government and the Bank, would not have caused this pressure and distrust. Every thing turns on the circumstances under which the withdrawal is made. If public confidence is not shaken, all is well; but, if it is, all—*all is difficulty and distress.* And this confidence is shaken.

It has been said by the gentleman from New York, that Government has

no design against the Bank; that it only desires to withdraw the public deposits. Yet, in the very paper submitted to Congress by the Executive Department, the Bank is arraigned as unconstitutional in its very origin, and also as having broken its charter, and violated its obligations—and its very existence is said to be dangerous to the country! Is not all this calculated to injure the character of the Bank and to shake confidence? The Bank has its foreign connexions, and is much engaged in the business of foreign exchanges; and what will be thought at Paris and London, when the community there shall see all these charges made by the Government against a Bank, in which they have always reposed the highest trust? Does not this injure its reputation? Does it not compel it to take a defensive attitude? The gentleman from New York spoke of the power in the country to put down the Bank, and of doing as our fathers did in the time of the revolution; and has called on the people to rise and put down this money power, as our ancestors put down the oppressive rule of Great Britain! All this is well calculated to produce the effect which is intended; and all this, too, helps further to shake confidence—it all injures the Bank—it all compels it to curtail more and more.

Sir, I venture to predict that the longer gentlemen pursue the experiment which they have devised, of collecting the public revenue by State banks, the more perfectly will they be satisfied that it cannot succeed. The gentleman has suffered himself to be led away by false analogies. He says, that when the present Bank expires, there will be the same laws as existed when the old Bank expired. Now, would it not be the inference of every wise man, that there will also be the same inconveniences as were then felt? It would be useful to remember the state of things which existed when the first Bank was created, in 1791; and that a high degree of convenience, which amounted to political necessity, compelled Congress thus early to create a national bank. Its charter expired in 1811, and the war came on the next year. The State banks immediately stopped payment; and, before the war had continued twelve months, there was a proposition for another United States Bank; and this proposal was renewed from year to year, and from session to session. Who supported this proposition? The very individuals who had opposed the former Bank, and who had now become convinced of the indispensable necessity of such an institution. It has been verified, by experience, that the Bank is as necessary in time of peace as in time of war; and perhaps more necessary, for the purpose of facilitating the commercial operations of the country, and collecting the revenue, and sustaining the currency. It has been alleged, that we are to be left in the same condition as when the old Bank expired, and, of course, we are to be subjected to the same inconveniences. Sir, why should we thus suffer all experience to be lost upon us? For the convenience of the Government and of the country there must be some bank, (at least I think so;) and I should wish to hear the views of the administration as to this point. The notes and bills of the Bank of the United States have heretofore been circulated every where—they meet the wants of every one—they have furnished a safe and most convenient currency. It is impossible for Congress to enact a certain value on the paper of the State banks. They may say that these banks are entitled to credit; but they cannot legislate them into the good opinion and faith of the public. Credit is a thing which must take its own course. It can never happen that the New York notes will be at par value in Louisiana, or that the notes of the Louisiana banks will be at par value in New York. In the notes of the United States Bank we have a currency of equal value every where; and I say that there is not to be found, in the whole world,

another institution whose notes spread so far and wide, with perfect credit in all places. There is no instance of a bank, whose paper is spread over so vast a surface of country, and is every where of such equal value. How can it be, that a number of State banks, scattered over two thousand miles of country, subject to twenty-four different State Legislatures and State tribunals, without the possibility of any general concert of action, can supply the place of one general bank? It cannot be. I see, sir, in the doctrines which have been advanced to-day, only new distress and disaster, new insecurity, and more danger to property than the country has experienced for many years; because it is in vain to attempt to uphold the occupations of industry, unless property is made secure; or of the value of labor, unless its recompense is safe. But an opportunity will occur for resuming this subject hereafter. I forbear from it for the present.

A word or two on one other point. It was said by me, on a former day, that this immediate question of the deposits does not necessarily draw after it the question of rechartering the Bank of the United States. It leaves that question for future adjustment. But the present question involves high political considerations, which I am not now about to discuss. If the question of the removal of the deposits be not now taken into view, gentlemen will be bound to vote on the resolutions of the Senator from Kentucky, as to the power which has been claimed and exercised. The question, then, is not as to the renewing of the charter of the Bank. But I repeat, that, however gentlemen may flatter themselves, if it be not settled that the deposits are to be restored, nothing will be settled; negative resolutions will not tranquillize the country and give it repose. The question is before the country—all agree that it must be settled by that country. I very much regret that topics are mixed up with the question, which may prevent it from being submitted to the calm judgment of the people. Yet, I have not lost faith in public sentiment. Events are occurring, daily, which will make the people think for themselves. The industrious, the enterprising, will see the danger which surrounds them, and will awake. If the majority of the people shall then say there is no necessity for a continuance of this sound and universal currency, I will acquiesce in their judgment, because I can do no otherwise than to acquiesce. If the gentleman from New York is right in his reading of the prognostics, and public opinion shall settle down in the way which he desires; and if it be determined here that the public money is to be placed at the disposal of the Executive, with absolute power over the whole subject of its custody and guardianship; and that the general currency is to be left to the control of banks created by twenty-four States; then, I say, that in my judgment, one strong bond of our social and political Union is severed, and one great pillar of our prosperity is broken and prostrate.

Mr. TALLMADGE, of New York, spoke in reply to Mr. WEBSTER, and denied the constitutional power of Congress to create a bank, although he maintained the power of the Secretary to make use of the State banks.

The subject being resumed the next day, January 31—

Mr. WEBSTER said: It is not to be denied, sir, that the financial affairs of the country have come, at last, to such a state, that every man can see plainly the question which is presented for the decision of Congress. We have, unquestionably, before us, now, the views of the Executive, as to the nature and extent of the evils alleged to exist; and its notions, also, as to the

proper remedy for such evils. That remedy is short. It is, simply, the system of administration already adopted by the Secretary of the Treasury, and which is nothing but this—that whenever he shall think proper to remove the public moneys from the Bank of the United States, and place them wherever else he pleases, this act shall stand as the settled policy and system of the country; and this system shall rest upon the authority of the Executive alone. This is now to be our future policy, as I understand the grave significant import of the remarks made yesterday by the gentleman from New York, and as I perceive they are generally understood, and as they are evidently understood by the gentleman from Mississippi, [Mr. POINDEXTER,] who has alluded to them on presenting his resolutions this morning. I wish, sir, to take this, the earliest opportunity, of stating my opinions upon this subject; and that opinion is, that the remedy proposed by the administration for the evils under which the country is at this time suffering, cannot bring relief, will not give satisfaction, and cannot be acquiesced in. I think the country, on the other hand, will show much dissatisfaction; and that, from no motive of hostility to the Government, from no disposition to make the currency of the country turn upon political events, or to make political events turn upon the question of the currency; but simply because, in my judgment, the system is radically defective—totally insufficient—carrying with it little confidence of the public, and none at all more than it acquires merely by the influence of the name which recommends it.

I do not intend now, Mr. President, to go into a regular and formal argument to prove the constitutional power of Congress to establish a national bank. That question has been argued a hundred times, and always settled the same way. The whole history of the country, for almost forty years, proves that such a power has been believed to exist. All previous Congresses, or nearly all, have admitted or sanctioned it; the judicial tribunals, Federal and State, have sanctioned it. The Supreme Court of the United States has declared the constitutionality of the present Bank, after the most solemn argument, without a dissenting voice on the bench.

Every successive President has, tacitly or expressly, admitted the power. The present President has done this; he has informed Congress that he could furnish the plan of a bank which should conform to the constitution. In objecting to the recharter of the present Bank, he objected for particular reasons; and he has said that a Bank of the United States would be useful and convenient for the people.

All this authority, I think, ought to settle the question. Both the members from New York, however, are still unsatisfied; they both deny the power of Congress to establish a bank. Now, sir, I shall not argue the question at this time; but I will repeat what I said yesterday. It does appear to me, that the late measures of the administration prove, incontestably, and by a very short course of reasoning, the constitutionality of a bank. What I said yesterday, and what I say to day, is, that since the Secretary, and all who agree with the Secretary, admit the necessity of the agency of *some* bank to carry on the affairs of Government, I was at a loss to see where they could find power to use a State bank, and yet find no power to create a Bank of the United States. The gentleman's perception may be sharp enough to see a distinction between these two cases, but it is too minute for my grasp. It is not said, in terms, in the constitution, that Congress may create a bank; nor is it said, in terms, that Congress may use a bank created by a State. How, then, does it get authority to do either? No otherwise, certainly, than

that it possesses power to pass all laws necessary and proper for carrying its enumerated powers into effect. If a law were now before us for confirming the arrangement of the Secretary, and adopting twenty State banks into the service of the United States, as fiscal agents of the Government, where would the honorable gentleman find authority for passing such a law? No where but in that clause of the constitution to which I have referred; that is to say, the clause which authorizes Congress to pass all laws necessary and proper for carrying its granted powers into effect. If such a law were before us, and the honorable member proposed to vote for it, he would be obliged to prove that the agency of a bank is a thing both necessary and proper for carrying on the Government. If he could not make this out, the law would be unconstitutional. We see the Secretary admits the necessity of this bank agency; the gentleman himself admits it—nay, contends for it. A bank agency is his main reliance. All the hopes expressed by himself or his colleague, of being able to get on with the present state of things, rest on the expected efficiency of a bank agency.

A bank, then, or some bank, being admitted to be both necessary and proper for carrying on the Government, and the Secretary proposing, on that very ground, and no other, to employ the State banks, how does he make out a distinction between passing a law for using a necessary agent, already created, and a law for creating a similar agent, to be used, when created, for the same purpose? If there be any distinction, as it seems to me, it is rather in favor of creating a bank by the authority of Congress, with such powers, and no others, as the service expected from it requires, answerable to Congress, and always under the control of Congress, than of employing as our agents banks created by other Governments, for other purposes, and over which this Government has no control.

But, sir, whichever power is exercised, both spring from the same source; and the power to establish a bank, on the ground that its agency is necessary and proper for the ends and uses of Government, is at least as plainly constitutional as the power to adopt banks for the same uses and objects, which are already made by other Governments. Indeed, the legal act is, in both cases, the same. When Congress makes a bank, it creates an agency; when it adopts a State bank, it creates an agency. If there be power for one, therefore, there is power for the other.

The honorable member, sir, quoted me as having said that I regarded the Bank as one of the greatest bonds of the union of the States. That is not exactly what I said. What I did say was, that the constitutional power vested in Congress over the legal currency of the country was one of its very highest powers, and that the exercise of this high power was one of the strongest bonds of the union of the States. And this I say still. Sir, the gentleman did not go to the constitution. He did not tell us how he understands it, or how he proposes to execute the great trust which it devolves on Congress, in respect to the circulating medium. I can only say, sir, how I understand it.

The constitution declares that Congress shall have power "to coin money, *regulate the value thereof*, and of foreign coin." And it also declares that "no State shall coin money, emit bills of credit, or make any thing but gold and silver coin a tender in payment of debts." Congress, then, and Congress only, can coin money, and *regulate the value thereof*. Now, sir, I take it to be a truth, which has grown into an admitted maxim with all the best writers, and the best informed public men, that those whose duty it is to pro-

protect the community against the evils of a debased coin, are bound also to protect it against the still greater evils of excessive issues of paper.

If the public require protection, says Mr. Ricardo, against bad money, which might be imposed on them by an undue mixture of alloy, how much more necessary is such protection, when paper money forms almost the whole of the circulating medium of the country.

It is not to be doubted, sir, that the constitution intended that Congress should exercise a regulating power—a power both necessary and salutary, over that which should constitute the actual money of the country, whether that money were coin, or the representative of coin. So it has always been considered—so Mr. Madison considered it, as may be seen in his message, December, 1816. He there says:

“Upon this general view of the subject, it is obvious that there is only wanting to the fiscal prosperity of the Government the restoration of a uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, insure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the Treasury to meet the public engagements in the local currency of most of the States; and it is expected that the same cause will produce the same effect throughout the Union. *But for the interests of the community at large, as well as for the purposes of the Treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description; and the measures which were taken during the last session, in execution of the power, give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and cannot fail to be an important auxiliary to those measures.*”

The State banks put forth paper as representing coin. As such representative, it obtains circulation—it becomes the money of the country—but its amount depends on the will of four hundred different State banks, each acting on its own discretion; and in the absence of every thing preventive or corrective, on the part of the United States, what security is there against excessive issues, and, consequently, against depreciation? The public feels that there is no security against these evils—it has learned this from experience; and this very feeling, this distrust of the paper of State banks, is the very evil which they themselves have to encounter; and it is a very serious evil. They know that confidence in them is far greater when there exists a power elsewhere to prevent excess and depreciation. Such a power, therefore, is friendly to their best interests. It gives confidence and credit to them, one and all. Hence a vast majority of the State banks—nearly all, perhaps, except those who expect to be objects of particular favor—desire the continuance of a national bank, as an institution highly useful to themselves.

The mode in which the operations of a national institution afford security against excessive issues by local banks is not violent, coercive, or injurious. On the contrary, it is gentle, salutary, and friendly. The result is brought about by the natural and easy operation of things. The money of the Bank of the United States, having a more wide-spread credit and character, is constantly wanted for purposes of remittance. It is purchased, therefore, for this purpose, and paid for in the bills of local banks; and it may be purchased, of course, at par, or near it, if these local bills are offered in the

neighborhood of their own banks, and these banks are in good credit. These local bills then return to the bank that issued them. The result is, that while the local bills will or may supply, in great part, the local circulation, (not being capable, for want of more extended credit, of being remitted to great distances,) their amount is thus limited to the purposes of local circulation; and any considerable excess, beyond this, finds in due season a salutary corrective.

This is one of the known benefits of the Bank. Every man of business understands it, and the whole country has realized the security which this course of things has produced.

But, sir, as to the question of the deposits, the honorable gentleman thinks he sees, at last, the curtain raised—he sees the object of the whole debate. He insists that the question of the restoration of the deposits, and the question of rechartering the Bank, are the same question. It strikes me, sir, as being strange, that the gentleman did not draw an exactly opposite inference from his own premises. He says he sees the Northern friends of the Bank, and the Southern opposers of the Bank, agreeing for the restoration of the deposits. This is true; and does not this prove that the question is a separate one? On the one question, the North and the South are together; on the other, they separate: either their apprehensions are obtuse, or else this very statement shows the questions to be distinct.

Sir, since the gentleman has referred to the North and the South, I will venture to ask him if he sees nothing important in the aspect which the South presents? On this question of the deposits, does he not behold almost an entire unanimity in the South? How many, from the Potomac to the Gulf of Mexico, defend the removal? For myself, I declare that I have not heard a member of Congress from beyond the Potomac say, either in or out of his seat, that he approved the measure. Can the gentleman see nothing in this but proof that the deposit question and the question of recharter are the same? Sir, gentlemen must judge for themselves; but it appears plain enough to me, that the President has lost more friends at the South by this interference with the public deposits, than by any or all other measures.

I must be allowed now, sir, to advert to a remark, in the speech of the honorable member from New York, on the left of the Chair, [Mr. WRIGHT,] as I find it in a morning paper. It is this:

“Be assured, sir, whatever nice distinctions may be drawn here as to the show of influence which expressions of the popular will upon such a subject are entitled to from us, it is possible for that will to assume a constitutional shape, which the Senate cannot misunderstand, and, understanding, will not unwisely resist.”

[Mr. WRIGHT said, it should have been *share* of influence.]

Mr. WEBSTER continued. That does not alter the sense. Mr. President, I wish to keep the avenues of public opinion, from the whole country to the Capitol, all open, broad and wide. I desire always to know the state of that opinion, on great and important subjects. From me, that opinion always has received, and always will receive, the most respectful attention and consideration. And whether it be expressed by State Legislatures, or by public meetings, or be collected from individual expressions, in whatever form it comes, it is always welcome. But, sir, the legislation for the United States must be conducted here. The law of Congress must be the will of Congress, and the proceedings of Congress its own proceedings.

I hope nothing intimidating was intended by this expression. [Mr. WRIGHT intimated it was not.] Then, sir, I forbear further remark.

Sir, there is one other subject on which I wish to raise my voice. There is a topic, which I perceive is become the general war cry of party, on which I take the liberty to warn the country against delusion. Sir, the cry is to be raised, that this is a question between the poor and the rich. I know, sir, it has been proclaimed, that one thing was certain—that there was always a hatred from the poor to the rich; and that this hatred would support the late measures, and the putting down of the Bank. Sir, I will not be silent at the threatening of such a detestable fraud on public opinion. If but one man, or ten men, in the nation will hear my voice, I would still warn them against this attempted imposition.

Mr. President, this is an eventful moment. On the great questions which occupy us, we all look for some decisive movement of public opinion. As I wish that movement to be free, intelligent, and unbiassed—the true manifestation of the public will—I desire to prepare the country for another assault, which I perceive is about to be made on popular prejudice—another attempt to obscure all distinct views of the public good—to overwhelm all patriotism, and all enlightened self-interest, by loud cries against false danger, and by exciting the passions of one class against another. I am not mistaken in the omen—I see the magazine whence the weapons of this warfare are to be drawn. I already hear the din of the hammering of arms, preparatory to the combat. They may be such arms, perhaps, as reason, and justice, and honest patriotism cannot resist. Every effort at resistance, it is possible, may be feeble and powerless; but, for one, I shall make an effort—an effort to be begun now, and to be carried on and continued, with untiring zeal, till the end of the contest comes.

Sir, I see in those vehicles which carry to the people sentiments from high places, plain declarations that the present controversy is but a strife between one part of the community and another. I hear it boasted as the unfailing security, the solid ground, never to be shaken, on which recent measures rest, *that the poor naturally hate the rich*. I know, that under the shade of the roofs of the Capitol, within the last twenty-four hours—among men sent here to devise means for the public safety and the public good—it has been vaunted forth, as matter of boast and triumph, that one cause existed, powerful enough to support every thing, and to defend every thing, and that was—*the natural hatred of the poor to the rich*.

Sir, I pronounce the author of such sentiments to be guilty of attempting a detestable fraud on the community; a double fraud; a fraud which is to cheat men out of their property, and out of the earnings of their labor, by first cheating them out of their understandings.

“*The natural hatred of the poor to the rich!*” Sir, it shall not be till the last moment of my existence—it shall be only when I am drawn to the verge of oblivion—when I shall cease to have respect or affection for any thing on earth—that I will believe the people of the United States capable of being effectually deluded, cajoled, and *driven about in herds*, by such abominable frauds as this. If they shall sink to that point—if they so far cease to be men—thinking men, intelligent men—as to yield to such pretences and such clamor, they will be slaves already; slaves to their own passions—slaves to the fraud and knavery of pretended friends. They will deserve to be blotted out of all the records of freedom; they ought not to dishonor the cause of self-government, by attempting any longer to exercise it; they ought

to keep their unworthy hands entirely off from the cause of republican liberty, if they are capable of being the victims of artifices so shallow—of tricks so stale, so threadbare, so often practised, so much worn out, on serfs and slaves.

“*The natural hatred of the poor against the rich!*” “The danger of a moneyed aristocracy!” “A power as great and dangerous as that resisted by the Revolution!” “A call to a new Declaration of Independence!”

Sir, I admonish the people against the objects of outcries like these. I admonish every industrious laborer in the country to be on his guard against such delusion. I tell him the attempt is to play off his passions against his interests, and to prevail on him, in the name of liberty, to destroy all the fruits of liberty; in the name of patriotism, to injure and afflict his country; and, in the name of his own independence, to destroy that very independence, and make him a beggar and a slave. Has he a dollar? He is advised to do that which will destroy half its value. Has he hands to labor? Let him rather fold them and sit still, than be pushed on, by fraud and artifice, to support measures which will render his labor useless and hopeless.

Sir, the very man, of all others, who has the deepest interest in a sound currency, and who suffers most by mischievous legislation in money matters, is the man who earns his daily bread by his daily toil. A depreciated currency—sudden change of prices—paper money, falling between morning and noon, and falling still lower between noon and night—these things constitute the very harvest-time of speculators, and of the whole race of those who are at once idle and crafty; and of that other race, too, the Catilines of all times, marked, so as to be known forever by one stroke of the historian’s pen—*men greedy of other men’s property, and prodigal of their own*. Capitalists, too, may outlive such times. They may either prey on the earnings of labor, by their *cent per cent.*, or they may hoard. But the laboring man—what can he hoard? Preying on nobody, he becomes the prey of all. His property is in his hands. His reliance, his fund, his productive freehold, his all, is his labor. Whether he work on his own small capital, or on another’s, his living is still earned by his industry; and when the money of the country becomes depreciated and debased, whether it be adulterated coin or paper without credit, that industry is robbed of its reward. He then labors for a country whose laws cheat him out of his bread. I would say to every owner of every quarter section of land in the West—I would say to every man in the East, who follows his own plough, and to every mechanic, artisan, and laborer, in every city in the country—I would say to every man, every where, who wishes, by honest means, to gain an honest living, “Beware of wolves in sheep’s clothing. Whoever attempts, under whatever popular cry, to shake the stability of the public currency, bring on distress in money matters, and drive the country into paper money, stabs your interest and your happiness to the heart.”

The herd of hungry wolves, who live on other men’s earnings, will rejoice in such a state of things. A system which absorbs into their pockets the fruits of other men’s industry, is the very system for them. A Government that produces or countenances uncertainty, fluctuations, violent risings and fallings in prices, and, finally, paper money, is a Government exactly after their own heart. Hence, these men are always for change. They will never let well enough alone. A condition of public affairs, in which property is safe, industry certain of its reward, and every man secure in his own hard-earned gains, is no paradise for them. Give them just the reverse of this state of

things: bring on change, and change after change; let it not be known to-day what will be the value of property to-morrow; let no man be able to say whether the money in his pockets at night will be money or worthless rags in the morning; and depress labor till double work shall earn but half a living—give them this state of things, and you give them the consummation of their earthly bliss.

Sir, the great interest of this great country, the producing cause of all its prosperity, is labor! labor! labor! We are a laboring community. A vast majority of us all live by industry and actual occupation, in some of their forms.

The constitution was made to protect this industry, to give it both encouragement and security; but, above all, security. To that very end, with that precise object in view, power was given to Congress over the currency, and over the money system of the country. In forty years' experience, we have found nothing at all adequate to the beneficial execution of this trust but a well-conducted national bank. That has been tried, returned to, tried again, and always found successful. If it be not the proper thing for us, let it be soberly argued against; let something better be proposed; let the country examine the matter coolly, and decide for itself. But whoever shall attempt to carry a question of this kind by clamor, and violence, and prejudice; whoever would rouse the people by appeals, false and fraudulent appeals, to their love of independence, to resist the establishment of a useful institution because it is a bank, and deals in money; and who artfully urges these appeals wherever he thinks there is more of honest feeling than of enlightened judgment, means nothing but deception. And whoever has the wickedness to conceive, and the hardihood to avow, a purpose to break down what has been found, in forty years' experience, essential to the protection of all interests, by arraying one class against another, and by acting on such a principle as *that the poor always hate the rich*, shows himself the reckless enemy of all. An enemy to his whole country, to all classes, and to every man in it, he deserves to be marked especially *as the poor man's curse!*

Mr. President, I feel that it becomes me to bring to the present crisis all of intellect, all of diligence, all of devotion to the public good, that I possess. I act, sir, in opposition to nobody. I desire rather to follow the administration, in a proper remedy for the present distress, than to lead. I have felt so from the beginning, and I have felt so until the declaration of yesterday made it certain that there is no further measure to be proposed. The expectation is, that the country will get on under the present state of things. Being myself entirely of a different opinion, and looking for no effectual relief until some other measure is adopted, I shall, nevertheless, be most happy to be disappointed. But if I shall not be mistaken, if the pressure shall continue, and if the indications of general public sentiment shall point in that direction, I shall feel it my duty, let the consequences be what they may, to propose a law for *altering and continuing the charter of the Bank of the United States.*

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SPEECH

OF

THE HON. HENRY CLAY,

ON THE SUBJECT OF

THE REMOVAL OF THE DEPOSITES;

DELIVERED

IN THE SENATE OF THE UNITED STATES,

December 26, 30, 1833.



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DELIVERED

IN THE SENATE OF THE UNITED STATES,

DECEMBER 26, 30, 1833.

The Chair having announced the special order of the day, being the report of the Secretary of the Treasury on the subject of the removal of the deposits—

Mr. CLAY rose, and offered the following resolutions :

1. *Resolved*, That, by dismissing the late Secretary of the Treasury because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion ; and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient.

The resolutions having been read—

Mr. CLAY rose, and addressed the Senate to the following effect : We are, said he, in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the Government, and to the concentration of all power in the hands of one man. The powers of Congress are paralyzed, except when exerted in conformity with his will, by frequent and an extraordinary exercise of the Executive veto, not anticipated by the founders of the constitution, and not practised by any of the predecessors of the present Chief Magistrate. And, to cramp them still more, a new expedient is springing into use, of withholding altogether bills which have received the sanction of both Houses of

Congress, thereby cutting off all opportunity of passing them, even if, after their return, the members should be unanimous in their favor. The constitutional participation of the Senate in the appointing power is virtually abolished by the constant use of the power of removal from office, without any known cause, and by the appointment of the same individual to the same office, after his rejection by the Senate. How often have we, Senators, felt that the check of the Senate, instead of being, as the constitution intended, a salutary control, was an idle ceremony? How often, when acting on the case of the nominated successor, have we felt the injustice of the removal? How often have we said to each other, well, what can we do? the office cannot remain vacant without prejudice to the public interests; and, if we reject the proposed substitute, we cannot restore the displaced, and perhaps some more unworthy man may be nominated?

The Judiciary has not been exempted from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded, and the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the Government, and recognised and established by numerous laws and treaties, have been subverted; the rights of the helpless and unfortunate aborigines trampled in the dust, and they brought under subjection to unknown laws, in which they have no voice, promulgated in an unknown language. The most extensive and most valuable public domain that ever fell to the lot of one nation, is threatened with a total sacrifice. The general currency of the country—the life-blood of all its business—is in the most imminent danger of universal disorder and confusion. The power of internal improvement lies crushed beneath the veto. The system of protection of American industry was snatched from impending destruction at the last session; but we are now coolly told by the Secretary of the Treasury, without a blush, “that it is understood to be *conceded on all hands* that a tariff for protection merely is to be finally abandoned.” By the 3d of March, 1837, if the progress of innovation continue, there will be scarcely a vestige remaining of the Government and its policy, as they existed prior to the 3d of March, 1829. In a term of years, a little more than equal to that which was required to establish our liberties, the Government will have been transformed into an elective monarchy, the worst of all forms of Government.

Such is a melancholy but faithful picture of the present condition of our public affairs. It is not sketched or exhibited to excite, here or elsewhere, irritated feeling: I have no such purpose. I would, on the contrary, implore the Senate and the people to discard all passion and prejudice, and to look calmly but resolutely upon the actual state of the constitution and the country. Although I bring into the Senate the same unabated spirit, and the same firm determination, which have ever guided me in the support of civil liberty, and the defence of our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

It is not among the least unfortunate symptoms of the times, that a large proportion of the good and enlightened men of the Union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the Republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776-'77 was one of the gloomiest periods of our revolution; but on *this day*, fifty-seven years ago, the Father of his country achieved a glorious victory, which diffused joy and gladness and animation throughout the States. Let us cherish the hope that, since he has gone from among us, Providence, in the dispensation of his mercies, has near at hand, in reserve for us, though yet unseen by us, some sure and happy deliverance from all impending dangers.

When we assembled here last year, we were full of dreadful forebodings. On the one hand, we were menaced with a civil war, which, lighting up in a single State, might spread its flames throughout one of the largest sections of the Union. On the other, a cherished system of policy, essential to the successful prosecution of the industry of our countrymen, was exposed to imminent danger of destruction. Means were happily applied by Congress to avert both calamities. The country reconciled, and our Union once more become a band of friends and brothers. And I shall be greatly disappointed, if we do not find those who were denounced as being unfriendly to the continuance of our confederacy, among the foremost to fly to its preservation, and to resist all Executive encroachments.

Mr. President, when Congress adjourned at the termination of the last session, there was one remnant of its powers, that over the purse, left untouched. The two most important powers of civil Government are those of the sword and purse; the first, with some restrictions, is confided by the constitution to the Executive, and the last to the Legislative Department. If they are separate, and exercised by different responsible departments, civil liberty is safe; but if they are united in the hands of the same individual, it is gone. That clear-sighted and revolutionary orator and patriot (PATRICK HENRY) justly said, in the Virginia convention, in reply to one of his opponents, "Let him candidly tell me where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and the purse. Can you prove, by any argumentative deduction, that it is possible to be safe without one of them? If you give them up, you are gone."

Up to the period of the termination of the last session of Congress, the exclusive constitutional power of Congress over the Treasury of the United States had never been contested. Among its earliest acts was one to establish the Treasury Department, which provided for the appointment of a Treasurer, who was required to give bond and security in a very large amount, "to receive and keep the moneys of the United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, *and not otherwise.*" Prior to the establishment of the present Bank of the United States, no Treasury or place had been provided or designated by law for the safe keeping of the public moneys, but the Treasurer was left to his own discretion and responsibility. When the existing Bank was established, it was provided that the public moneys should be deposited with it, and consequently that Bank became the Treasury of the United States: for, whatever place is designated by law for the keeping of the public money of the United States, under the care of the Treasurer of the United States, is, for the time being, *the Treasury*. Its safety was drawn in question by the Chief Magistrate, and an agent was appointed a little more than a year ago to investigate its ability. He reported to the Executive that it was perfectly safe. His apprehensions of its solidity were communicated by the President to Congress, and a committee was appointed to examine the subject: they, also, reported in favor of its security. And, finally, among the last acts of the House of Representatives, prior to the close of the last session, was the adoption of a resolution, manifesting its entire confidence in the ability and solidity of the Bank.

After all these testimonies to the perfect safety of the public moneys in the place appointed by Congress, who could have supposed that the place would have been changed? Who could have imagined that, within sixty days of the meeting of Congress, and, as it were, in utter contempt of its authority, the change should have been ordered? Who would have dreamt that the Treasurer should have thrown away the single key to the Treasury, over which Congress held ample control, and accepted, in lieu of it, some dozens of keys, over which neither Congress nor he has any adequate control? Yet, sir, all this has been done, and it is now our solemn duty to inquire, 1st, By whose authority it has been ordered; and, 2d, Whether the order has been given in conformity with the constitution and laws of the United States.

I agree, sir, and I am very happy whenever I can agree with the President, as to the immense importance of these questions. He says, in the paper which I hold in my hand, that he looks upon the pending question as involving higher considerations than the "mere transfer of a sum of money from one bank to another. Its decision may affect the character of our Government for ages to come." And, with him, I view it as "of transcendent importance, both in the principles and the consequences it involves." It is a question of all time, for posterity as well as for us—of constitutional government or

monarchy—of liberty or slavery. As I regard it, I hold the Bank as nothing, as perfectly insignificant, faithful as it has been in the performance of all its duties. I hold a sound currency as nothing, essential as it is to the prosperity of every branch of business, and to all conditions of society, and efficient as the agency of the Bank has been in providing the country with a currency as sound as ever existed, and unsurpassed by any in Christendom. I consider even the public faith, sacred and inviolable as it ever should be, as comparatively nothing. All these questions are merged in the greater and mightier question of the constitutional distribution of the powers of the Government, as affected by the recent Executive innovation. The real inquiry is, shall all the barriers which have been erected by the caution and wisdom of our ancestors, for the preservation of civil liberty, be prostrated and trodden under foot, and the sword and the purse be at once united in the hands of one man? Shall the power of Congress over the Treasury of the United States, hitherto never contested, be wrested from its possession, and be henceforward wielded by the Chief Magistrate? Entertaining these views of the magnitude of the question before us, I shall not, at least to-day, examine the reasons which the President has assigned for his act. If he has no power to perform it, no reasons, however cogent, can justify the deed. None can sanctify an illegal or unconstitutional act.

The first question which I have intimated it to be my purpose to consider is, by whose authority, power, or direction was the change of the deposits made? Now, is there any Senator who hears me that requires proof on this point? Is there an intelligent man in the Union who does not know who it was that decided the removal of the deposits? Is it not a matter of universal notoriety? Does any one, and who, doubt that it was the act of the President? That it was done by his express command? The President, on this subject, has himself furnished perfectly conclusive evidence in the paper read by him to his cabinet. It is, indeed, a most extraordinary document, without precedent in the Executive annals of this or any other civilized country. If the proceeding were not unconstitutional, it was certainly such as was not contemplated by the constitution. That instrument confers on the President the right to require the opinion, in writing, of the principal officers of the Executive Departments, separately, on subjects appertaining to their respective offices. Instead of conforming to this provision, the President reads to those officers, collectively, his opinion and decision, in writing, upon an important matter which related only to one of them, and to him exclusively. This paper is afterwards formally promulgated to the world, with the President's authority. And why? Can it be doubted that it was done under the vain expectation that a name would quash all inquiry, and secure the general approbation of the people? Those who now exercise power in this country appear to regard all the practices and usages of their predecessors as wrong. They look upon all precedents with contempt, and, casting them scornfully aside, appear to be resolved upon a new era in administration. Yet, when hard pressed, they display a readiness

to take shelter under any precedent, however ill adapted it may be to their condition. Although the President has denied to the Senate an official copy of that singular paper, as a part of the people of the United States, for whose special benefit it was published, we have a right to use it.

The question is, by virtue of whose will, power, dictation, was the removal of the deposits effected? By whose authority and determination were they transferred from the Bank of the United States, where they were required by the law to be placed, and put in banks which the law had never designated? And I tell gentlemen opposed to me that I am not to be answered by the exhibition of a *formal* order bearing the signature of R. B. Taney, or any one else. I want to know, not the amanuensis or clerk who prepared or signed the official form, but the authority or the individual who dictated or commanded it—not the hangman who executes the culprit, but the tribunal which pronounced the sentence. I want to know that power in the Government, that original and controlling authority, which required and commanded the removal of the deposits. And, I repeat the question, is there a Senator, or intelligent man in the whole country, who entertains a solitary doubt?

Hear what the President himself says in his manifesto read to his cabinet: "The President deems it HIS duty to communicate in this manner to his cabinet the *final conclusions* of HIS OWN MIND, and the reasons on which they are founded." And, at the conclusion of this paper, what does he say? "The President again repeats that he begs his cabinet to consider the proposed measure as HIS OWN, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. ITS RESPONSIBILITY HAS BEEN ASSUMED, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers, in the establishment of our happy system of Government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and HE therefore names the first day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made." Sir, is there a Senator here who will now tell me that the removal was not the measure, and the act, of the President? I know, indeed, that there are in this document many of those most mild, most gracious, most condescending expressions, in which power so well knows how to clothe its mandates. The President flatters, and coaxes, and soothes Secretary Duane, in the most gentle, bland, and conciliating language. "In the remarks," says the President, "he has made on this all-important question, he trusts the Secretary of the Treasury will see only the *frank* and *respectful* declaration of the opinions which the President has formed on a measure of great national interest, deeply affecting the character and usefulness of his

“ administration ; and *not a spirit of dictation*, which the President would be *as careful to avoid*, as ready to resist. Happy will he be if the facts now disclosed produce uniformity of opinion and *unity* of action among the members of the administration.” How kind ! how gentle ! and how very gracious all these civil and loving expressions must have sounded in the gratified ear of Mr. Duane ? They remind me of an historical anecdote related of one of the most remarkable characters which our species has produced. When Oliver Cromwell was contending for the mastery in Great Britain or Ireland, (I do not remember which,) he besieged a certain Catholic town. The place made a brave and stout resistance ; but, at length, being likely to be taken, the poor Catholics proposed terms of capitulation, among which was one stipulating for the toleration of their religion. The paper containing the conditions being presented to Oliver, he put on his spectacles, and, after deliberately examining them, cried out, “ Oh, yes, granted, granted, certainly ;” but he added, with stern determination, if one of them shall dare to be found attending mass, he shall be instantly hanged, (under what section—whether the *second* or some other, I believe the historian does not relate.)

Thus the Secretary was told by the President that he had not the slightest wish to dictate—Oh ! no ; nothing was further from his intention ; *that* he would carefully avoid ; the President desired only to convince his judgment, but not at all to interfere with his free exercise of an authority exclusively confided to him. But what was the refractory Duane told in the sequel ? “ If you do not conform to my wishes ; if you do not surrender your own judgment, and act upon mine ; if you do not effect the removal of these deposits within the short period prescribed by me, you shall quit your office.” And what was the fact ? This cabinet paper bears date the 18th September last. In the official paper, published at the seat of Government, through which the Executive promulgates its acts, intentions, and wishes to the people of the United States, on the 20th of the same month, two days only after the cabinet had been indoctrinated, it was stated, “ We are *authorized* to state ”—“ *authorized* ”—this is the term which gave credit to the annunciation—“ We are *authorized* to state that the deposits of the public money will be changed from the Bank of the United States to the State banks as soon as necessary arrangements can be made for that purpose, and that it is believed they can be completed in Baltimore, Philadelphia, New York, and Boston, in time to make the change by the first of October, and perhaps sooner, if circumstances should render an earlier action necessary on the part of the Government.” We see, between the cabinet paper and this official article, not merely a coincidence of time, but of language, as if the same head had dictated, and the same pen had written both. The President names the first day of October, or sooner if the necessary arrangements can be made ; and the gazette announces the same first day of October, and perhaps sooner, if circumstances should render it necessary. Mr. Duane remained in office until the 23d of September, on which day he was

dismissed. Is this not conclusive testimony that the measure was the President's; that he, not the Secretary of the Treasury, decided upon it; that it was resolved on whilst Mr. Duane was yet in office; and that it was formally announced to the world before his dismissal? As to the day of his dismissal, we have incontestable evidence in the letter addressed to him on the 23d of September by the President, in which, notwithstanding all the amicable, gracious, and affectionate language of the cabinet paper, the President says, "I feel constrained to notify you that your further services as Secretary of the Treasury are no longer required." On that same day, the 23d, Mr. Taney was appointed, and on the 26th, in conformity with the will of the President, he performed the clerical act of affixing his signature to the order for the removal of the deposits, and thus made himself a willing instrument to consummate what the sterner integrity of his predecessor disdained to execute. Such is the testimony, on one side, to sustain the proposition that the removal of the deposits was the President's own measure, determined on whilst the late Secretary was still in office, and against his will; and establishing, beyond contradiction, that the subsequent act of the present Secretary was in form ministerial, in substance the work of another. Can more satisfactory testimony be ever needed? Yet it is even still more complete. We have that of Mr. Duane, as if no single link in the chain should be left unsupplied. In a late publication from that gentleman, addressed to the American people, after giving a history of the circumstances which preceded and accompanied his appointment, and those which attended his expulsion from office, he says: "Thus was I thrust from office—not because I had neglected any duty—not because I had differed with the President on any other point of public policy—not because I had differed with him about the Bank of the United States—but because I refused, without further inquiry for action by Congress, to remove the deposits."

Is it possible that evidence can be more complete? Will any one, after this exhibition of concurring proof, derived directly from the President on one side, and from the late Secretary on the other, that the removal of the deposits was not only the President's own act, but was contrary to the will and judgment of the Secretary, who was *himself* removed because he would not remove *them*, for a single instant doubt on the subject? Can any one rise here, in his place, and assert that the removal was not accomplished by the President's authority or command?

And now, sir, having distinctly seen whose measure this is, I shall proceed to inquire whether it has been adopted in conformity with the constitution and laws of the United States. I repeat that it is not my purpose now to examine the reasons assigned for the act, further than as they may tend to show a right in the President to perform it. For, if the President had no power over the subject; if the constitution and laws, instead of conveying to him an authority to act as he has done, required him to keep his hands off the public Treasury, and confided its care and custody to other hands, no rea-

sons can justify the usurpation. What power has the President over the public Treasury? Is it in the Bank charter? That gives him but two clearly defined powers: one to appoint, with the concurrence of the Senate, and to remove the Government directors; and the other, to order a scire facias when the charter shall be violated by the Bank. There is no other power conferred on him by it. The clause of the charter relating to the public deposits declares, "that the deposits of the money of the United States, in places in which the said Bank and the branches thereof may be established, shall be made in said Bank or branches thereof, *unless the Secretary of the Treasury shall, at any time, otherwise order and direct*; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction." Can language, as to the officer who is charged with the duty of removing the deposits, be more explicit? The Secretary of the Treasury alone is designated. The President is not, by the remotest allusion, referred to. And, to put the matter beyond all controversy, whenever the Secretary gives an order or direction for the removal, he is to report his reasons—to whom? To the President? No! directly to Congress. Nor is the Bank itself required to report its periodical condition to the President, but to the Secretary of the Treasury or to Congress, through the organ of a committee. The whole scheme of the charter seems to have been cautiously framed with the deliberate purpose of excluding all intervention of the President, except in the two cases which have been specified. And this power, given exclusively to the Secretary, and these relations maintained between him and Congress, are in strict conformity with the act of September, 1789, creating and establishing the Treasury Department. Congress reserved to itself the control over that department. It refused to make it an Executive department. Its whole structure manifests cautious jealousy and experienced wisdom. The constitution had ordained that no money should be drawn from the Treasury but in consequence of appropriations made by law. It remained for Congress to provide *how* it should be drawn. And that duty is performed by the act constituting the Treasury Department. According to that act, the Secretary of the Treasury is to prepare and sign, the Comptroller to countersign, the Register to record, and, finally, the Treasurer to pay a warrant, issued, and *only issued*, in virtue of a prior act of appropriation. Each is referred to the law as the guide of his duty. Each acts on his own separate responsibility. Each is a check upon every other. And all are placed under the control of Congress. The Secretary is to report to Congress, and to each branch of Congress. The great principle of division of duty, and of control and responsibility—that principle which lies at the bottom of all free government—that principle, without which there can be no free government, is upheld throughout. So, in the Bank charter, Congress did not choose to refer the reasons of the Secretary to the President; but, whenever

he changed the deposits, the Secretary was commanded to report his reasons directly to Congress, that they might weigh, judge, and pronounce upon their validity.

Thus is it evident that the President, neither by the act creating the Treasury Department, nor by the Bank charter, has any power over the public Treasury. Has he any by the constitution? None, none. We have already seen that the constitution positively forbids any money from being drawn from the Treasury but in virtue of a previous act of appropriation. But the President himself says that "upon him has been devolved, by the constitution, and *the suffrages of the American people*, the duty of superintending the operation of the Executive Departments of the Government, and seeing that "the laws are faithfully executed." If there existed any such double source of Executive power, it has been seen that the Treasury Department is not an Executive department; but that, in all that concerns the public Treasury, the Secretary is the agent or representative of Congress, acting in obedience to their will, and maintaining a direct intercourse with them. By what authority does the President derive power from the mere result of an election? In another part of this same cabinet paper he refers to the suffrages of the people as a source of power independent of the constitution, if not overruling it. At all events, he seems to regard the issue of the election as an approbation of all constitutional opinions previously expressed by him, no matter in what ambiguous language. I differ, sir, entirely from the President. No such conclusions can be legitimately drawn from his re-election. He was re-elected from his presumed merits generally, and from the attachment and confidence of the people, and also from the unworthiness of his competitor. The people had no idea, by that exercise of their suffrage, of expressing their approbation of all the opinions which the President held. Can it be believed that Pennsylvania, so justly denominated the key-stone of our federal arch, which has been so steadfast in her adherence to certain great national interests, and, among others, to that of the Bank of the United States, intended, by supporting the re-election of the President, to reverse all her own judgments, and to demolish all that she had built up? The truth is, that the re-election of the President no more proves that the people had sanctioned all the opinions previously expressed by him than, if he had had the king's evil or a carbuncle, it would demonstrate that they intended to sanction his physical infirmity.

But the President infers *his* duty to remove the deposits from the constitution and the suffrages of the American people. As to the latter source of authority, I think it confers none. The election of a President, in itself, gives no power, but merely designates the person who, as an officer of the Government, is to exercise power granted by the constitution and laws. In this sense, and in this sense only, does an election confer power. The President alleges a right in himself to superintend the operations of the Executive Departments from the constitution and the suffrages of the people.

Now, neither grants any such right. The constitution gives him the power, and no other power than to call upon the heads of each of the Executive Departments to give his opinion, in writing, as to any matter connected with his department. The issue of the election simply puts him in a condition to exercise that right. By *the laws*, not by *the constitution*, all the departments, with the exception of that of *the Treasury*, are placed under the direction of the President. And, by various laws, specific duties of the Secretary of the Treasury (such as contracting for loans, &c.) are required to be performed under the direction of the President. This is done from greater precaution; but his power, in these respects, is derived from *the laws*, and not from *the constitution*. Even in regard to those departments other than that of the Treasury, in relation to which by law, and not by the constitution, a control is assigned to the Chief Magistrate, duties may be required of them, by the law, beyond his control, and for the performance of which their heads are responsible. This is true of the State Department, that which, above all others, is most under the immediate direction of the President. And this principle, more than thirty years ago, was established in the case of *Marbury against Madison*. The Supreme Court, in that case, expressed itself in the following language:

“By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

“In such cases their acts are his acts; and whatever opinion may be entertained of the manner in which Executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and, being entrusted to the Executive, the decision of the Executive is conclusive. The application of this remark will be perceived by adverting to the act of Congress for establishing the department of Foreign Affairs. This officer, as his duties were prescribed by that act, is to conform precisely to the will of the President. He is the mere organ by whom that will is communicated. The acts of such an officer, as an officer, can never be examinable by the courts.

“But when the Legislature proceeds to impose on that officer other duties, when he is directed peremptorily to perform certain acts, [that is, when he is not placed under the direction of the President,] when the rights of individuals are dependent on the performance of those acts, he is so far *the officer of the law*, is amenable to *the laws* for his conduct, and cannot, at his discretion, sport away the vested rights of others.

“The conclusion, from this reasoning, is, that where the heads of departments are the political or confidential agents of the Executive, merely to execute the will of the President, or rather to act in cases

in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy."

Although I am constrained to believe that the President has been mistaken in asserting that the duty has been devolved upon him by the constitution and by the suffrages of the American people, to superintend the operation of the Executive Departments, and consequently to order the removal of the public deposits, if *he* deemed such removal was expedient, he is charged by the constitution to "take care that the laws be faithfully executed." And the question is, what does this injunction really import? It has been contended, under it, that the Executive aid or co-operation ought not, in any case, to be given, but when the Chief Magistrate himself is persuaded that it is to be lent to the execution of a law of the United States; and that, in all instances where *he* believes that the law is otherwise than it has been settled or adjudicated, he may withhold the means of execution with which he is invested. In other words, this enormous pretension of the Executive claims, that if a treaty or law exists, contrary to the constitution, in the *President's opinion*; or if a judicial opinion be pronounced, in *his* opinion repugnant to the constitution, to a treaty, or to a law, he is not bound to afford the Executive aid in the execution of any such treaty, law, or decision. If this be sound doctrine, it is evident that every thing resolves itself into the *President's opinion*. There is an end to all constitutional government, and a sole functionary engrosses the whole power supposed hitherto to have been assigned to various responsible officers, checking and checked by each other. Can this be true? Is it possible that there is any one so insensible to the guaranties of civil liberty as to subscribe to this monstrous pretension? In respect even to affairs of ordinary administration, how enormous would it be? Various officers of Government are charged with the liquidation of most important accounts of contractors and others, concerned in the disbursement, annually, of large sums of the public revenue. The rejection or allowance of a single item of these accounts may fix the fate of the contractor or disbursing agent. Hitherto this matter was supposed to be judicial in its nature, and beyond Executive control; but let this new heresy be sanctioned, and the President may say to an Auditor or Comptroller, pass this, or reject that item in the account, (such is my opinion of the law,) and if you do not, I will remove you from office. Let this doctrine be once established, and there is an end to all regulated government, to all civil liberty. It will become a machine, *simple* enough. There will be but one will in the State; but one bed, and that will be the bed of Procrustes! All the departments, legislative, judicial, and executive, and all subordinate functionaries, must lie quietly on it, but it will be the repose of despotism and death.

Sir, such an enormous and extravagant pretension cannot be sanctioned. It must be put alongside of its exploded compeer, the power once asserted for Congress to pass any and all laws called for by "the general welfare."

Allow me, in a few words, to present to the Senate my ideas of the structure of our Federal Government. It has no power but granted power; and the power granted must be found in the constitution, the instrument granting it. If the question arise, is a specific power granted? the grant must be shown, or the power must be proven to be necessary and proper to carry into effect a granted power. Our executive power, such as it is, must be looked for in the constitution which has created and modified it, and not in the forms in which Executive power practically exists in other countries, nor in the nature which is supposed to belong to it in the writings of Montesquieu, or any other speculative author. And so of our legislative and judicial powers. With respect to each of the three great departments into which Government is divided, we are to look for their respective powers into the constitution itself, and not into the theories of abstract or speculative philosophers. They have neither more nor less power than what is given. As to each, the constitution uses general language, which is to be interpreted not so much by its terms, as by the specific delineations of authority which are subsequently made. In reference to the general duty assigned to the President to "take care that the laws be faithfully executed," what does that mean? According to the exposition which I am considering, the President would absorb all the powers of Government. For in each particular case of the execution of a law, if his judgment was not satisfied that *it was law*, he might withhold the requisite Executive agency. If a treaty were to be carried into effect; if a law to be executed; or a judicial decision to be enforced, denying that the treaty was valid, the law constitutional, or the decision agreeable to law, he might refuse the necessary means to enforce the execution of them respectively; and the practical result of the whole would be, that nothing under Government could be done but what was agreeable to the President. Such a view of our Government must be rejected. In my opinion, when the constitution enjoined the President "to take care that the laws be faithfully executed," it required nothing more than this, to employ the means entrusted to him to overcome resistance whenever it might be offered to the laws. Congress, by the fourteenth clause of the eighth section of the first article of the constitution, is invested with power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. It might as well be contended that Congress, under this power, deciding what was and what was not law, could direct, by the militia, that only to be executed which Congress deemed to be law. By the second section of the second article of the constitution, the President is made commander in chief of the army and navy of the United States, and of the militia when called into actual service; and, by a subsequent

clause, the injunction in question is given to him. Thus invested with the command and employment of the physical force of the Union, can a doubt remain that the purpose of the direction which the constitution gives to him to take care that the laws be faithfully executed, was that he should, when properly called on by the civil authority, employ that force to subdue unlawful resistance? Understood in any other sense, those few words become a vortex, into which the whole powers of Government are irresistibly drawn. We have established a system, in which power has been most carefully separated and distributed between three separate and independent departments. We have been told a thousand times, and all experience assures us, that such a division is indispensable to the existence and preservation of freedom. We have established and designated offices, and appointed officers in each of those departments, to execute the duties respectively allotted to them. The President, it is true, presides over the whole; specific duties are often assigned by particular laws to him alone, or to other officers under his superintendence. His parental eye is presumed to survey the whole extent of the system in all its movements: but has he power to come into Congress, and to say such laws only shall you pass; to go into the courts and prescribe the decisions which they may pronounce; or even to enter the offices of administration, and, where duties are specifically confided to those officers, to substitute his will to their duty? Or has he a right, when those functionaries, deliberating upon their own solemn obligations to the people, have moved forward in their assigned spheres, to arrest their lawful progress, because they have dared to act contrary to his pleasure? No, sir; no, sir. His is a high and glorious station, but it is one of observation and superintendence. It is to see that obstructions in the forward movement of Government, unlawfully interposed, shall be abated by legitimate and competent means.

That this is the true interpretation of the constitutional clause on which I am commenting, is fairly to be inferred from the total silence as to any opposite construction of all cotemporaneous expositions. If the clause were susceptible of the construction which I am now combating, if it had been deemed possible that it could have been interpreted to embrace in the Chief Magistrate all the powers of Government, would no one of the thousand wise and patriotic men, to whom the constitution was submitted, have detected and exposed the lurking danger? I have myself made, or, when I could not, I have got others to make researches in the Federalist, the Debates of Conventions, and other cotemporaneous publications, and not the slightest countenance has been discovered in any of them for this sweeping Executive pretension. If the pretension be well founded, then it is most evident that there is no longer any control over our public affairs than that exerted by the President. If it be true that when a duty, by law, is specifically assigned to a particular officer, the President may go into his office and control him in the performance of it, then it is most manifest that the will of the President is

the supreme law, and every barrier between him and the public Treasury is annihilated; and that union of the purse and the sword in one man's hands, which the patriotic Henry so much denounced, and which constitutes the best description of despotism, is completely realized.

The charter of the Bank requires that the public deposits be made in its vaults. It gives the Secretary of the Treasury power to remove them, and why? Because he is placed by Congress at the head of the finances of the Government. Weekly reports of the condition of the Bank are made to him; he is the sentinel of Congress, the agent of Congress, the representative of Congress, created by Congress; his duties are prescribed and defined by Congress. To them and not to the President he is to report. His vigilance is presumed to anticipate or promptly to perceive the existence of danger, and, when he discovers it, his duty is to provide for the safety of the public treasure, and forthwith to report to his principal. Standing in this responsible attitude to Congress, and to Congress alone, if the President may go to that officer, and tell him to do as he bids or he shall be removed from office, what security remains to the people of this country?

But let me suppose that I am totally mistaken in this construction of the constitutional injunction, and that its true meaning is that the President has the power to superintend the execution of every particular law exactly as Congress intended it, what was it his duty to do in this case, under that interpretation of the constitution? The law authorized the Secretary of the Treasury, on his own responsibility, to remove the deposits. It commanded him, if he removed them, to report *his* reasons to Congress. The duty was confided to his judgment and discretion exclusively, and his judgment was to be guided by his own reasons, not those of any other, and *they* and no other were to be reported to Congress. Now, if the President were bound to take care that that law should be faithfully executed, then his duty exacted of him to see that the Secretary of the Treasury was allowed the exercise of his free, unbiassed, and uncontrolled judgment in removing or not removing the deposits. *That* was the faithful execution of the law. Congress had not said that the Secretary of State, the Secretary of War, or the Secretary of the Navy should remove them, but the Secretary of the Treasury. The President had no right, either by the constitution or the law, to go to the other Secretaries, and ask them how a service should be performed, which was confided exclusively to the judgment of the Secretary of the Treasury. He might as well have asked the Secretary of the Treasury how a movement of the army should be made by the Secretary of War, as to have consulted this latter officer how a financial operation should be executed, not only not committed to him, but assigned exclusively to another. It was not to the President and all the Secretaries combined, that the power was given to change the disposition of the public deposits. If the change were made, it was not *their* reasons for it which were to be reported to

Congress. It was to the Secretary of the Treasury alone, exclusive of every other functionary of the Government, that the duty was specifically confined, and the measure was to be judged by Congress upon *his* and not *their* reasons. Can it be said, then, in the language of the constitution, that the President "took care that the law was faithfully executed," when he took it altogether out of hands to which the law had confided it, and substituted another's will for the will of him who was expressly charged with the execution of the law?

[I will thank the Secretary of the Senate to get me the sedition law. It is not very certain, since the Executive is resolved to act in its spirit, how soon we shall be called upon to re-enact its provisions.]

Now, sir, said Mr. CLAY, let us examine some of the other sources or motives for the exercise of this power assumed by the President over the public Treasury, as described by himself. He says in the cabinet paper: "The President repeats that he begs the cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to *preserve* the MORALS of the people, the FREEDOM of the PRESS, and the PURITY of the elective franchise." The morals of the people! What part of the constitution has given to the President any authority over the morals of the people? None. It grants no such power, but expressly denies all power over religion, the genial and presiding influence which prevails in every true system of morals. Tolerate to-day an assumption of authority in regard to morals, and what is the next step in the progress of usurpation? It will be to exercise a control over religion! And then to cherish some particular sect, as the only one that is orthodox, to the exclusion of all others. And the President might as well, in this case, have gone into the office of the Secretary of the Treasury, and controlled him in the performance of a service, exclusively confided to his care and judgment, because it was necessary to preserve *the religion* of the people! I ask for the authority. Will any one of the gentlemen here, who consider themselves as the vindicators of the President, point to any clause of the constitution which gives to the *present* President, or any other, power to preserve the morals of the people?

But "the freedom of the press" constituted another object with the President. I am not surprised that the present Secretary of the Treasury should be desirous of reviving a power and control over the press. He was a member of that party which passed the famous sedition law under pretexts precisely similar to those which are now put forward. I recollect that it was then said that the purpose of the sedition law was, not to repress the freedom of the press, but to prevent its abuses; to preserve, not to destroy it; to punish its excesses and calumnies; and to aid the cause of truth and virtue. It was to introduce salutary restraints, and to discountenance grossness and indecency. It is sometimes useful to refer back to these old

things—to the motives—the pleas of State necessity, which induced arbitrary power, in former times, to surround itself with a shield against all impertinent investigation and searching inquiry. That memorable act was passed in 1798, and, among other provisions, it contained the following section :

SEC. 2. "That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall, knowingly and willingly, assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing, or writings, against the Government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said Government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute ; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States ; or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States ; or to resist, oppose, or defeat, any such law or act ; or to aid, encourage, or abet, any hostile designs of any foreign nation against the United States, their people, or Government ; then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

We perceive that the law was only directed against *false, scandalous*, and *malicious* writings against the Government of the United States, or either House of Congress, or the PRESIDENT of the U. States ; and then only when the publication was intended to defame them, and to bring them into contempt or disrepute ! It was only when the libeller intended to deprive high functionaries of public confidence, and to excite against them the hatred of the GOOD people of the United States, that he was subjected to punishment. It was only for the sake of truth, and of justice, that the sedition law was passed. That was all, sir. We now find the same motives avowed ; the same purpose of protecting the abused President, and injured Secretary of the Treasury. How uniform in all ages are the workings of tyranny ! How plausible its pretexts ! How detestable its real aims !

By the sedition law, abominable and unconstitutional as it was, the semblance of justice at least was preserved. Its victims were allowed the benefit of witnesses and of counsel to prove the truth of the alleged libel, and, above all, the inestimable privilege of trial by jury. It expressly declared, "That if any person shall be prosecuted under this act for the writing or publishing any libel aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence the truth of the matter contained in the publication charged as a libel. And the jury who shall try the cause shall

"have a right to determine the law and the fact, under the direction of the court, as in other cases."

But under this new sedition law, which the President revives and promulgates in his cabinet paper, the offender is stripped of all privileges. The tribunals are dispensed with, as useless ceremonies, and he stands condemned, unheard and untried. The impartial President takes the whole matter into his own hands, and, constituting himself the law, the judge, the jury, and the executioner, pronounces absolutely the guilt of the accused.

The President has also very much at heart "the purity of the elective franchise." And here again I ask, what part of the constitution of this country confers on him any power over that subject? Look at the nature and the consequences of the Executive exercise of this power! If it were really necessary that steps should be taken to preserve the freedom of the press and the purity of elections, what ought the President to have done? Taken the matter into his own hands? No, no. It was his duty to recommend to Congress the passage of laws which the courts of the United States could execute. Congress could have re-examined the constitution, reviewed the existing state of legislation, and, *if they possessed the requisite power*, passed suitable laws, with appropriate sanctions. By undertaking himself to do that for which he has not the shadow of authority in the constitution or laws, his acts must necessarily be inefficient, and altogether incompetent to the purposes he professes. Suppose this contumacious institution, which committed, in the year 1829, the unpardonable sin of not appointing, in conformity with the President's wishes, a new president to one of its eastern branches, should dare to go on and vindicate itself against the calumnies constantly poured out upon it; that it should audaciously continue to stand upon its defence, how impotent will the power of the President be to restrain it! How inadequate will his authority prove, to prevent the Bank from resorting to the public press! Why, sir, if Congress possessed the power, and the President had come to us, we could have laid Mr. Nicholas Biddle by the heels, if he should be again guilty of the presumption of publishing another report of Gen. Smith or Mr. McDuffie, another speech of the eloquent gentleman (Mr. Webster) near me, or any other such *libels*, tending to bring the President, his administration, or his Secretary of the Treasury into disrepute. But the President of the United States, who thought he had the Bank in his power; who thought he could destroy it; who was induced to believe, by that "influence behind the throne greater than the throne itself," that he could bankrupt the institution by his fiat, has only demonstrated his total incompetency to regulate the press, and preserve it from contamination. The Bank has openly avowed, and yet avows, its settled purpose to defend itself on all proper occasions. And, what is still more provoking, instead of becoming bankrupt, with its doors closed, and its vaults inaccessible, it has, it seems, got more specie than it knows what to do with, and cruelly and unfeelingly hoarding it, miser-like, refuses to let one dollar of its

ten millions pass out to the relief of the local banks to which the public deposits have been transferred!

The President of the United States had officially nothing to do with the morals of the community. No, sir, for the preservation of our morals, and the free enjoyment of our religion, we are responsible to no earthly tribunal. We are responsible to God only, and I trust that this responsibility will ever remain to Him, and to his mercy alone. Neither had he any thing to do with the freedom of the press. Any power over it is expressly denied even to Congress. It was justly said by one of those few able men and bright luminaries whom Providence has yet spared to us, in answer to complaints about its alleged abuses, from the French Government, during the French revolution, that the press was one of those delicate concerns which admitted of no regulation by Government; and that its abuses must be tolerated, lest its freedom should be abridged, and its utility be destroyed. Such is the condition of the American press, as secured and recognised by the constitution; and so it has been regarded ever since the expiration of the odious sedition law, until the detestable principles of that law have been reasserted in the cabinet paper to which I have so often referred.

Such are the powers on which the President relies to justify his seizure of the Treasury of the United States. I have examined them, one by one, and they all fail, utterly fail, to bear out the act. We are brought irresistibly to the conclusions, 1st. That the invasion of the public Treasury has been perpetrated by the removal of one Secretary of the Treasury, who would not violate his conscientious obligations, and by the appointment of another, who stood ready to subscribe his name to the orders of the President; and, 2dly. That the President has no color of authority in the constitution or laws for the act which he has thus caused to be performed.

And now let us glance at some of the tremendous consequences which may ensue from this high-handed measure. If the President may, in a case in which the law has assigned a specific duty exclusively to a designated officer, command it to be executed, contrary to his own judgment, under the penalty of an expulsion from office, and, upon his refusal, may appoint some obsequious tool to perform the required act, where is the limit to his authority? Has he not the same right to interfere in every other case, and remove from office all that he can remove, who hesitate or refuse to do his bidding, contrary to their own solemn convictions of their duty? There is no resisting this inevitable conclusion. Well, then, how stands the matter of the public Treasury? It has been seen that the issue of warrants upon the Treasury is guarded by four independent and hitherto responsible checks, each controlling every other, and all bound by the law, but all holding their offices, according to the existing practice of the Government, at the pleasure of the President. The Secretary signs, the Comptroller countersigns, the Register records, and the Treasurer pays the warrant. We have seen that the President has gone to the first and highest link in the chain, and

coerced a conformity to his will. What is to prevent, whenever he desires to draw money from the public Treasury, his applying the same penalty of expulsion, under which Mr. Duane suffered, to every link of the chain, from the Secretary of the Treasury down, and thus to obtain whatever he demands? What is to prevent a more compendious accomplishment of his object, by the agency of transfer drafts, drawn on the sole authority of the Secretary, and placing the money at once wherever, or in whatsoever hands the President pleases?

What security have the people against the lawless conduct of any President? Where is the boundary to the tremendous power which he has assumed? Sir, every barrier around the public Treasury is broken down and annihilated. From the moment that the President pronounced the words, "this measure is my own; I take upon myself the responsibility of it," every safeguard around the Treasury was prostrated, and henceforward it might as well be at the Hermitage. The measure adopted by the President is without precedent. I beg pardon, there is one, but we must go down for it to the commencement of the Christian era. It will be recollected, by those who are conversant with Roman history, that, after Pompey was compelled to retire to Brundisium, Cæsar, who had been anxious to give him battle, returned to Rome, "having reduced Italy (says the venerable biographer) in sixty days, (the exact period between the day of the removal of the deposits and that of the commencement of the present session of Congress, without the usual allowance of any days of grace)—in sixty days, without bloodshed." The biographer proceeds:

"Finding the city in a more settled condition than he expected, and many Senators there, he addressed them in a mild and gracious manner, [as the President addressed his late Secretary of the Treasury,] and desired them to send deputies to Pompey with an offer of honorable terms of peace, &c. As Metellus, the tribune, *opposed his* taking money out of the public Treasury, and cited some laws against it—[such, sir, I suppose, as I have endeavored to cite on this occasion]—Cæsar said, 'Arms and laws do not flourish together. If you are not pleased at what I am about, you have only to withdraw. [Leave the office, Mr. Duane!] War, indeed, will not tolerate much liberty of speech.' When I say this, I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the Treasury, and, as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death if he gave him any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the menace, retired; and Cæsar was afterwards easily and readily supplied with every thing necessary for the war."

And where now is the public Treasury? Who can tell? It is certainly without a local habitation, if it has a name. Where is the money of the people of the United States? Floating about on Treasury drafts or checks, to the amount of millions, placed in the hands of tottering banks to enable them to pay their own just debts, instead of being applied to the service of the people. These checks are scattered to the winds by the Secretary of the Treasury, in defiance of a positive law by which the Treasurer is forbidden expressly to pay any money out of the Treasury but under the authority of warrants, legally issued and authenticated, in virtue of previous appropriations by law. [Mr. C. here read parts of a published correspondence between the Treasurer and the Cashier of the Bank of the United States, in which the latter complained of these checks, as being issued without any notice to the Bank, and contrary to an express arrangement, and in which the Treasurer says they were only to be used *in the event of certain contingencies*.] Thus, sir, the people's money is put into a bank here, and a bank there, in regard to the solvency of which we have no satisfactory knowledge, to be employed by them in the event of certain contingencies. *The event of certain contingencies!* And we know nothing of the event, nor of the contingencies!

Where was the oath of office of the Treasurer when he thus dared to suffer the people's money to be sported with? Where was the constitution, which expressly prohibits money to be drawn from the Treasury, but in consequence of previous appropriation by law? Where was the law establishing the Treasury Department, which enjoins that no money be paid out of the Treasury but upon valid warrants legally issued? Where was the Treasurer's bond and surety when he thus cast about the public money? I do not pretend to any great knowledge of the law, but give me an intelligent and unpacked jury, and I undertake to prove to them that he has forfeited the penalty of his bond.

Mr. President, said Mr. C., the people of the United States are indebted to the President for the boldness of this movement; and as one among the humblest of them, I profess my obligations to him. He has told the Senate, in his message refusing an official copy of his cabinet paper, that it has been published for the information of the people. As a part of the people, the Senate, if not in their official character, have a right to its use. In that extraordinary paper he has proclaimed that the measure is *his* own; and that *he* has *taken* upon himself the responsibility of it. In plain English, he has proclaimed an open, palpable, and daring usurpation!

For more than fifteen years, Mr. President, I have been struggling to avoid the present state of things. I thought I perceived, in some proceedings during the conduct of the Seminole war, a spirit of defiance to the constitution and to all law. With what sincerity and truth, with what earnestness and devotion to civil liberty, I have struggled, the Searcher of all human hearts best knows. With what fortune, the bleeding constitution of my country now fatally attests.

I have, nevertheless, persevered; and, under every discouragement, during the short time that I expect to remain in the public councils, I will persevere. And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech him, as the greatest favor he could grant to me here below, to spare me until I live to behold the people rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome; to rescue the public Treasury from pillage; to preserve the constitution of the United States; to uphold the Union against the danger of the concentration and consolidation of *all* power in the hands of the Executive; and to sustain the liberties of the people of this country against the imminent perils to which they now stand exposed.

DECEMBER 30, 1833.

Mr. CLAY resumed his speech.

Before I proceed, said Mr. CLAY, to a consideration of the report of the Secretary of the Treasury, and the second resolution, I wish to anticipate and answer an objection which may be made to the adoption of the first. It may be urged that the Senate, being, in a certain contingency, a court of impeachment, ought not to pre-judge a question which it may be called upon to decide judicially. But, by the constitution, the Senate has three characters, legislative, executive, and judicial. Its ordinary, and by far its most important character, is that of its being a component part of the Legislative Department. Only three or four cases since the establishment of the Government, (that is, during a period of near half a century,) have occurred, in which it was necessary that the Senate should act as a judicial tribunal, the least important of all its characters. Now, it would be most strange, if, when its constitutional powers were assailed, it could not assert and vindicate them, because, by possibility, it might be required to act as a court of justice. The first resolution asserts, only, that the President has assumed the exercise of a power over the public Treasury not granted by the constitution and laws. It is silent as to motive; and, without the *quo animo*—the deliberate purpose of usurpation—the President would not be liable to impeachment. But if a concurrence of all the elements be necessary to make out a charge of wilful violation of the constitution, does any one believe that the President will now be impeached? And shall we silently sit by, and see ourselves stripped of one of the most essential of our legislative powers, and the exercise of it assumed by the President, to whom it is not delegated, without effort to maintain it, because, against all human probability, he may be hereafter impeached?

The report of the Secretary of the Treasury, in the first paragraph, commences with a misstatement of the fact. He says: "*I have directed*" that the deposits of the money of the United States

shall not be made in the Bank of the United States. If this assertion is regarded in any other than a mere formal sense, it is not true. The Secretary may have been the instrument, the clerk, the automaton, in whose name the order was issued; but the measure was that of the President, by whose authority or command the order was given; and of this we have the highest and most authentic evidence. The President has told the world that the measure was his own; and that he took it upon his own responsibility. And he has exonerated his cabinet from all responsibility about it. The Secretary ought to have frankly disclosed all the circumstances of the case, and told the truth, the whole truth, and nothing but the truth. If he had done so, he would have informed Congress that the removal had been decided by the President on the 18th of September last; that it had been announced to the public on the 20th; and that Mr. Duane remained in office until the 23d. He would have informed Congress that this important measure was decided before he entered into his new office, and was the cause of his appointment. Yes, sir; the present Secretary stood by, a witness to the struggle in the mind of his predecessor, between his attachment to the President and his duty to the country; saw him dismissed from office because he would not violate his conscientious obligations, and came into Mr. Duane's place, to do what he could not honorably, and would not perform. A son of one of the fathers of democracy, by an administration professing to be democratic, was expelled from office, and his place supplied by a gentleman who, throughout his whole career, has been uniformly opposed to democracy! A gentleman who, at another epoch of the republic, when it was threatened with civil war, and a dissolution of the Union, voted, (although a resident of a slave State,) in the Legislature of Maryland, against the admission of Missouri into the Union, without a restriction incompatible with her rights as a member of the confederacy.* Mr. Duane was dismissed because the solemn convictions of his duty would not allow him to conform to the President's will; because his logic did not bring his mind to the same conclusions with those of the logic of a venerable old gentleman, inhabiting a white house not distant from the Capitol; because his watch [Here Mr. C. held up his own.] did not keep time with that of the President. He was dismissed under that detestable system of proscription for opinion's sake, which has finally dared to intrude itself into the Halls of Congress—a system under which three unoffending clerks, the fathers of families, the husbands of wives, dependent on them for support, without the slightest imputation of delinquency, have been recently unceremoniously discharged, and

* The following is the proceeding to which Mr. CLAY referred:

“*Resolved by the General Assembly of Maryland, That the Senators and Representatives from this State in Congress be requested to use their utmost endeavors, in the admission of the State of Missouri into the Union, to prevent the prohibition of slavery from being required of that State as a condition of its admission.*”

It passed January, 1820, in the affirmative. Among the names of those in the negative is that of Mr. TAXER.—See *Niles's Register*, Vol. XVII. p. 394, 395.

driven out to beggary, by a man, himself the substitute of a meritorious officer, who has not been in this city a period equal to one monthly revolution of the moon! I tell our Secretary, (said Mr. C., raising his voice,) that, if he touch a single hair of the head of any one of the clerks of the Senate, (I am sure he is not disposed to do it,) on account of his opinions, political or religious, if no other member of the Senate does it, I will instantly submit a resolution for his own dismissal. [*Loud applause in the gallery.*]

The Secretary ought to have communicated all these things; he ought to have stated that the cabinet was divided two and two, and one of the members, equally divided with himself on the question, willing to be put into either scale. He ought to have given a full account of this the most important act of Executive authority since the origin of the Government; he should have stated with what unsullied honor his predecessor retired from office, and on what degrading conditions he accepted his vacant place. When a momentous proceeding like this, varying the constitutional distribution of the powers of the Legislative and Executive Departments, was resolved on, the ministers, against whose advice it was determined, should have resigned their stations. No ministers of any monarch in Europe, under similar circumstances, would have retained the seals of office. And if, as nobody doubts, there is a cabal behind the curtain, without character and without responsibility, feeding the passions, stimulating the prejudices, and moulding the actions of the incumbent of the Presidential office, it was an additional reason for their resignations. There is not a Maitre d'Hotel in Christendom, who, if the scullions were put into command in the parlor and dining room, would not scorn to hold his place, and fling it up in disgust with indignant pride!

I shall examine the report before us, 1st. As to the power of the Secretary over the deposits; 2dly. His reasons for the exercise of it; and, 3dly. The manner of its exercise.

First. The Secretary asserts that the power of removal is *exclusively* reserved to him; that it is *absolute* and *unconditional*, so far as the interests of the Bank are concerned; that it is not restricted to any particular contingencies; that the reservation of the power to the Secretary of the Treasury exclusively is a part of the compact; that he may exercise it, if the public convenience *or* interest would, *in any degree*, be promoted; that this exclusive power thus reserved is so absolute, that the Secretary is not restrained by the considerations that the public deposits in the Bank are perfectly safe; that the Bank promptly meets *all* demands upon it; and that it *faithfully* performs all its duties; and that the power of Congress, on the contrary, is so totally excluded that it could not, without a breach of the compact, order the deposits to be changed, even if Congress were satisfied that they were not safe, or should be convinced that the interests of the people of the United States imperiously demanded the removal.

Such is the statement which this unassuming Secretary makes of

his own authority! He expands his own power to the most extravagant dimensions; and he undertakes to circumscribe that of Congress in the narrowest and most restricted limits! Who would have expected that, after having so confidently maintained for himself such absolute, exclusive, unqualified, and uncontrollable power, he would have let in any body else to share with him its exercise? Yet he says, "As the Secretary of the Treasury presides over one of the *Executive* Departments of the Government, and *his power* over this subject forms a part of the *Executive* duties of his office, the manner in which it is exercised must be subject to the supervision of the officer" [meaning the President, whose official name his modesty would not allow him to pronounce] "to whom the constitution has confided the whole *Executive* power, and has required to take care that the laws be faithfully executed." If the clause in the compact exclusively vests the power of removal in the Secretary of the Treasury, what has the President to do with it? What part of the charter conveys to him any power? If, as the Secretary contends, the clause of removal, being part of the compact, restricts its exercise to the Secretary, to the entire exclusion of Congress, how does it embrace the President, especially since both the President and Secretary conceive that "the power over the place of deposit for the public money would seem properly to belong to the Legislative Department of the Government?" If the Secretary be correct in asserting that the power of removal is confined to the Secretary of the Treasury, then Mr. Duane, while in office, possessed it; and his dismissal, because he would not exercise a power which belonged to him exclusively, was itself a violation of the charter.

But by what authority does the Secretary assert that the Treasury Department is one of the Executive Departments of the Government? He has none in the act which creates the department; he has none in the constitution. The Treasury Department is placed by law on a different footing from all the other departments, which are, in the acts creating them, denominated Executive, and placed under the direction of the President. The Treasury Department, on the contrary, is organized on totally different principles. Except the appointment of the officers, with the co-operation of the Senate, and the power which is exercised of removing them, the President has neither, by the constitution nor the law creating the department, any thing to do with it. The Secretary's reports and responsibility are directly to Congress. The whole scheme of the department is one of checks, each officer acting as a control upon his associates. The Secretary is required by the law to report, not to the President, but directly to Congress. Either House may require any report from him, or command his personal attendance before it. It is not, therefore, true that the Treasury is one of the Executive Departments, subject to the supervision of the President. And the inference drawn from that erroneous assumption entirely fails. The Secretary appears to have no precise ideas either of the constitution or duties of the department

over which he presides. He says, "the Treasury Department being "entrusted with the administration of the finances of the country, it "was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money "was deposited in safe keeping, in the hands of faithful agents," &c. The premises of the Secretary are only partially correct, and his conclusion is directly repugnant to law. It never was the duty of the *Secretary* to take care that the public money was deposited in safe keeping, in the hands of faithful agents, &c. That duty is expressly, by the act organizing the department, assigned to the Treasurer of the United States, who is placed under oath, and under bond, with a large penalty, not to issue a dollar out of the public Treasury, but in virtue of warrants granted in pursuance of acts of appropriation, "and not otherwise." When the Secretary treats of the power of the President, he puts on corsets, and contracts and prostrates himself before the Executive, in the most graceful, courteous, and lady-like form; but, when he treats of that of Congress, and of the Treasurer, he swells and expands himself, and flirts about with all the airs of high authority.

But I cannot assent to the Secretary's interpretation of his power of removal, contained in the charter. Congress has not given up its control over the Treasury, or the public deposits, to either the Secretary or the Executive. Congress could not have done so without a treacherous renunciation of its constitutional powers, and a faithless abandonment of its duties. And now let us see what is the true state of the matter. Congress has reserved to itself, exclusively, the right to judge of the reasons for the removal of the deposits, by requiring the report of them to be made to it; and, consequently, the power to ratify or invalidate the act. The Secretary of the Treasury is the fiscal sentinel of Congress, to whom the Bank makes weekly reports, and who is presumed constantly to be well acquainted with its actual condition. He may, consequently, discover the urgent necessity of prompt action, to save the public treasure, before it is known to Congress, and when it is not in session. But he is immediately to report—to whom? To the Executive? No, to Congress. For what purpose? That Congress may sanction or disapprove the act.

The power of removal is a reservation for the benefit of the people, not of the Bank. It may be waived. Congress, being a legislative party to the compact, did not thereby deprive itself of ordinary powers of legislation. It cannot, without a breach of the national faith, repeal privileges or stipulations intended for the benefit of the Bank. But it may repeal, modify, or waive the exercise altogether of those parts of the charter which were intended exclusively for the public. Could not Congress repeal altogether the clause of removal? Such a repeal would not injure, but add to the security of the Bank. Could not Congress modify the clause, by revoking the agency of the Secretary of the Treasury, and substituting that of the Treasurer, or any other officer of Government? Could not Congress, at any time during the twenty years' duration of the charter, abolish the

office altogether of Secretary of the Treasury, and assign all his present duties to some newly constituted department? The right and the security of the Bank do not consist in the form of the agency, nor in the name of the agent, but in this—that, whatever may be its form or his denomination, the removal shall only be made upon urgent and satisfactory reasons. The power of supplemental legislation was exercised by Congress both under the old and new Bank. Three years after the establishment of the existing Bank, an act passed, better to regulate the election of directors, and to punish any one who should attempt, by bribes or presents in any form, to influence the operations of the institution.

The denial of the Secretary to Congress of the power to remove the deposits, under any circumstances, is most extraordinary. Why, sir, suppose a corrupt collusion between the Secretary and the Bank to divide the spoils of the Treasury? Suppose a total non-fulfilment of all the stipulations on the part of the Bank? Is Congress to remain bound and tied, whilst the Bank should be free from all the obligations of the charter? The obligation of one party to observe faithfully his stipulations in a contract, rests upon the corresponding obligation of the other party to observe his stipulations. If one party is released, both are free. If one party fail to comply with his contract, *that* releases the other. This is the fundamental principle of all contracts, applicable to treaties, charters, and private agreements. If it were a mere private agreement, and one party, who had bound himself to deposite, from time to time, his money with the other, to be redrawn at his pleasure, saw that it was wasting and squandered away, he would have a clear right to discontinue the deposits. It is true that a party has no right to excuse himself from the fulfilment of his contract, by imputing a breach to the other which has never been made. And it is fortunate for the peace and justice of society, that neither party to any contract, whether public or private, can decide conclusively the question of fulfilment by the other, but must always act under subjection to the ultimate decision, in case of controversy, of an impartial arbiter, provided in the judicial tribunals of civilized communities.

As to the absolute, unconditional, and exclusive power which the Secretary claims to be vested in himself, it is in direct hostility with the principles of our Government, and adverse to the genius of all free institutions. The Secretary was made, by the charter, the mere representative or agent of Congress; its temporary substitute, acting in subordination to it, and bound, whenever he did act, to report to his principal his reasons, that they might be judged of and sanctioned, or overruled. Is it not absurd to say that the agent can possess more power than the principal? The power of revocation is incident to all agency, unless, in express terms, by the instrument creating it, a different provision is made. The powers, whether of the principal or the agent, in relation to any contract, must be expounded by the principles which govern all contracts. It is true that the language of the clause of removal, in the charter, is general, but

it is not, therefore, to be torn from the context. It is a part only of an entire compact, and is to be interpreted in connexion with every part and with the whole. Upon surveying the entire compact, we perceive that the Bank has come under various duties to the public; has undertaken to perform important financial operations for the Government; and has paid a bonus into the public Treasury of a million and a half of dollars. We perceive that, in consideration of the assumption of these heavy engagements, and the payment of that large sum of money, on the part of the Bank, the public has stipulated that the public deposits shall remain with the Bank during the continuation of the charter, and that its notes shall be received by the Government in payment of all debts, dues, and taxes. Except the corporate character conferred, there is none, but those two stipulations of any great importance to the Bank. Each of the two parties to the compact must stand bound to the performance of his engagements, whilst the other is honestly and faithfully fulfilling *his*. It is not to be conceived, in the formation of the compact, that either party could have anticipated that, whilst he was fairly and honestly executing every obligation which he had contracted, the other party might arbitrarily or capriciously exonerate himself from the discharge of his obligations. Suppose, when citizens of the United States were invited by the Government to subscribe to the stock of this Bank, that they had been told that, although the Bank performs all its covenants with perfect fidelity, the Secretary of the Treasury may, arbitrarily or capriciously, upon his speculative notions of any degree of public interest or convenience to be advanced, withdraw the public deposits, would they have ever subscribed? Would they have been guilty of the folly of binding themselves to the performance of burdensome duties, whilst the Government was left at liberty to violate at pleasure that stipulation of the compact which by far was the most essential to them?

On this part of the subject, I conclude that Congress has not parted from, but retains, its legitimate power over the deposits; that it might modify or repeal altogether the clause of removal in the charter; that a breach of material stipulations on the part of the Bank would authorize Congress to change the place of the deposits; that a corrupt collusion to defraud the public, between the Bank and a Secretary of the Treasury, would be a clear justification to Congress to direct a transfer of the public deposits; that the Secretary of the Treasury is the mere agent of Congress, in respect to the deposits, acting in subordination to his principal; that it results from the nature of all agency that it may be revoked, unless otherwise expressly provided; and, finally, that the principal, and much less the agent, of one party cannot justly or lawfully violate the compact, or any of its essential provisions, whilst the other party is in the progressive and faithful performance of all his engagements.

If I am right in this view of the subject, there is an end of the argument. There was perfect equality and reciprocity between the two parties to the compact. Neither could exonerate himself from

the performance of his obligations, whilst the other was honestly proceeding fairly to fulfil all his engagements. But the Secretary of the Treasury *concedes* that the public deposits were perfectly safe in the hands of the Bank; that the Bank promptly met every demand upon it; and that it faithfully performed all its duties. By these concessions, he surrenders the whole argument, admits the complete obligation of the public to perform its part of the compact, and demonstrates that no reasons, however plausible or strong, can justify an open breach of a solemn national compact.

Second. But he has brought forward various reasons to palliate or justify his violation of the national faith; and it is now my purpose to proceed, in the second place, to examine and consider them. Before I proceed to do this, I hope to be allowed again to call the attention of the Senate to the nature of the office of Secretary of the Treasury. It is altogether financial and administrative. His duties relate to the finances, their condition and improvement, and to them exclusively. The act creating the Treasury Department, and defining the duties of the Secretary, demonstrates this. He has no legislative powers; and Congress neither has nor could delegate any to him. His powers, wherever given, and in whatever language expressed, must be interpreted by his defined duties. Neither is the Treasury Department an *Executive* department. It was expressly created not to be an Executive department. It is administrative, but not *Executive*. His relations are positive and direct to Congress, by the act of his creation, and not to the President. Whenever he is put under the direction of the President, (as he is by various subsequent acts, especially those relating to public loans,) it is done by express provision of law, and for specified purposes.

With this key to the nature of the office and the duties of the officer, I will now briefly examine the various reasons which he assigns for the removal of the public deposits. The first is the near approach of the expiration of the charter. But the charter had yet to run about two and a half of the twenty years to which it was limited. During the *whole* term, the public deposits were to continue to be made with the Bank. It was clearly foreseen, at the commencement of the term, as now, that it would expire, and yet Congress did not then, and has never since, thought proper to provide for the withdrawal of the deposits prior to the expiration of the charter. Whence does the Secretary derive an authority to do what Congress had never done? Whence his power to abridge in effect the period of the charter, and to limit it to seventeen and a half years, instead of twenty? Was the urgency for the removal of the deposits so great that he could not wait sixty days, until the assembling of Congress? He admits that they were perfectly safe in the Bank; that it promptly met every demand upon it; and that it faithfully performed all its duties. Why not, then, await the arrival of Congress? The last time the House of Representatives had spoken, among the very last acts of the last session, that House had declared its full confidence in the safety of the deposits. Why not wait until it could review the subject,

with all the new light which the Secretary could throw upon it, and again proclaim its opinion? He comes into office on the 23d September, 1833, and, in three days, with intuitive celerity, he comprehends the whole of the operations of the complex department of the Treasury, perceives that the Government, from its origin, had been in uniform error, and denounces the opinions of all his predecessors! And, hastening to rectify universal wrong, in defiance and in contempt of the resolution of the House, he signs an order for the removal of the deposits! It was of no consequence to him whether places of safety, in substitution of the Bank of the United States, could be obtained or not; without making essential precautionary arrangements, he commands the removal almost instantly to be made.

Why, sir, if the Secretary were right in contending that he alone could order the removal, even he admits that Congress has power to provide for the security of the public money in the new places to which it might be transferred. If he did not deign to consult the representatives of the people as to the propriety of the first step, did not a decent respect to their authority and judgment exact from him a delay, for the brief term of sixty days, that they might consider what was fitting to be done? The truth is, that the Secretary, by law, has nothing to do with the care and safe keeping of the public money. As has been already shown, that duty is specifically assigned by law to the Treasurer of the United States. And, in assuming upon himself the authority to provide other depositories than the Bank of the United States, he alike trampled upon the duties of the Treasurer, and what was due to Congress. Can any one doubt the motive of this precipitancy? Does any body doubt that it was to preclude the action of Congress, or to bring it under the influence of the Executive veto? Let the two Houses, or either of them, perform their duty to the country, and we shall hereafter see whether, in that respect, at least, Mr. Secretary will not fail to consummate his purpose.

3. The next reason assigned for this offensive proceeding, is the re-election of the present Chief Magistrate. "I have always (says the Secretary) regarded the result of the last election of President of the United States as the declaration of a majority of the people that the charter ought not to be renewed." "Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of the election of President, was *understood on all sides* as bringing forward that question for incidental decision at the then approaching election. It was accordingly argued on both sides before the tribunal of the people, and their verdict pronounced against the Bank," &c. What has the Secretary to do with elections? Do they belong to the financial concerns of his department? Why this constant reference to the result of the last Presidential election? Ought not the President to be content with the triumphant issue of it? Did he want still more votes? The winners ought to forbear making any complaints, and be satisfied, whatever the losers may be. After an election is fairly terminated,

I have always thought that the best way was to forget all the incidents of the preceding canvass, and especially the manner in which votes had been cast. If one has been successful, that ought to be sufficient for him; if defeated, regrets are unavailing. Our fellow-citizens have a right freely to exercise their elective franchise as they please, and no one, certainly no candidate, has any right to complain about it.

But the argument of the Secretary is, that the question of the Bank was fairly submitted to the people, by the consent of all parties, fully discussed before them, and their verdict pronounced against the institution, in the re-election of the President. His statement of the case requires that we should examine carefully the various messages of the President to ascertain whether the Bank question was fairly and frankly (to use a favorite expression of the President) submitted by him to the people of the United States.

In his message of 1829, the President says: "The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from *precipitancy* in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to *the parties* interested, too soon present it to the deliberate consideration of the Legislature and the people." The charter had then upwards of six years to run. Upon this solemn invitation of the Chief Magistrate, two years afterwards, the Bank came forward with an application for renewal. Then it was discovered that the application was premature. And the Bank was denounced for accepting the very invitation which had been formally given. The President proceeds: "Both the constitutionality and the expediency of the Bank are well questioned *by a large portion of our fellow-citizens.*" This message was a non-committal. The President does not announce clearly his own opinion, but states that of *a large portion of our fellow-citizens.* Now we all know that a large and highly respectable number of the people of the United States have always entertained an opinion adverse to the Bank on both grounds. The President continues: "*If* such an institution is deemed essential to the fiscal operations of the Government, I submit to the wisdom of the Legislature whether *a national one*, founded upon the credit of the Government and its resources, might not be devised." Here again the President, so far from expressing an explicit opinion against all national banks, makes a hypothetical admission of the utility of a bank, and distinctly intimates the practicability of devising one on the basis of the credit and resources of the Government.

In his message of 1830, speaking of the Bank, the President says: "Nothing has occurred to lessen, in any degree, the dangers which *many of our citizens* apprehend from that institution, *as at present organized.* In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire whether it be not *possible* to secure the advantages afforded by the present Bank through the agency of a Bank of the

“United States, so modified in its principles and structure as to obviate constitutional and other objections.” Here, again, the President recites the apprehensions of “many of our citizens,” rather than avows his own opinion. Again his message is a non-committal. He admits indeed “the advantages afforded by the present Bank,” but suggests an inquiry whether it be possible (of course doubting) to secure them by a bank differently constructed. And towards the conclusion of that part of the message, his language fully justifies the implication that it was not to the Bank itself, but to “its present form,” that he objected.

The message of 1831, when treating of the Bank, was very brief. “Entertaining the opinions (says the President) heretofore expressed in relation to the Bank of the United States, as at present organized,” [non-committal once more; and what *that* means, Mr. President, nobody better knows than *you* and I—cheering in the galleries]—“I felt it my duty, in my former messages, ‘*frankly to disclose them.*’” [*Frank disclosures!*] Now, sir, I recollect perfectly well the impressions made on my mind, and on those of other Senators with whom I conversed, immediately after that message was read. We thought, and said to each other, the President has left a door open to pass out. It is not the Bank; it is not any Bank of the United States to which he is opposed, but it is to the particular organization of the existing Bank. And we all concluded that, if amendments could be made to the charter satisfactory to the President, he would approve a bill for its renewal.

We come now to the famous message of July, 1832, negating the bill to recharter the Bank. Here, it might be expected, we should certainly find clear opinions, unequivocally expressed. The President cannot elude the question. He must now be perfectly *frank*. We shall presently see. He says: “A Bank of the United States is, in many respects, convenient to the Government, and useful to the people. Entertaining this *opinion*, and deeply impressed with the belief that *some* of the powers and privileges possessed by the existing Bank are unauthorized by the constitution,” &c., “I felt it my duty, at an early period of my administration, to call the attention of Congress to the practicability of *organizing an institution* combining all its advantages, and obviating these objections. I sincerely regret that in the act before me I can perceive none of *those modifications*,” &c. “That a Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain a doubt. Had the Executive been called on to furnish *the project of such an institution*, the duty would have been cheerfully performed.” The message is principally employed in discussing the objections which the President entertained to the particular provisions of the charter, and not to the Bank itself; such as the right of foreigners to hold stock in it; its exemption from State taxation; its capacity to hold real estate, &c. &c. Does the Presi-

dent, even in this message, array himself in opposition to any Bank of the United States? Does he even oppose himself to the existing Bank, under every organization of which it is susceptible? On the contrary, does he not declare that he does not entertain *a doubt* that a bank may be constitutionally organized? Does he not even rebuke Congress for not calling on him to furnish a project of a bank, which he would have cheerfully supplied? Is it not fairly deducible, from the message, that the charter of the present Bank might have been so amended as to have secured the President's approbation to the institution? So far was the message from being decisive against all Banks of the United States, or against the existing Bank, under any modification, the President expressly declares that the question was adjourned. He says: "A general discussion will now take place, eliciting new light, and settling important principles; and a *new* Congress, elected in the midst of such discussion, and furnishing an equal representation of the people, according to the *last census*, will bear to the *Capitol* the verdict of public opinion, and I doubt not bring this important question to a satisfactory result."

This review of the various messages of the President conclusively evinces that they were far from expressing, frankly and decisively, any opinions of the Chief Magistrate, except that he was opposed to the amendments of the charter contained in the bill submitted to him for its renewal, and that he required further amendments. It demonstrates that he entertained no doubt that it was practicable and desirable to establish *a* Bank of the United States; it justified the hope that he might be ultimately reconciled to the continuation of the present Bank, with *suitable* modifications; and it expressly proclaimed that the whole subject was adjourned to the new Congress, to be assembled under the last census. If the parts of the messages which I have cited, or other expressions in the same document, be doubtful, or susceptible of a different interpretation, the review is sufficient for my purpose; which is, to refute the argument so confidently advanced, that the President's opinion, in opposition to the present or any other Bank of the United States, was frankly and fairly stated to the people prior to the late election, was fully understood, and finally decided by them.

Accordingly, in the canvass which ensued, it was boldly asserted by the partisans of the President that he was not opposed to a Bank of the United States, nor to the existing Bank, with proper amendments. They maintained, at least, wherever those friendly to a national bank were in the majority, that his re-election would be followed by a recharter of the Bank, with proper amendments. They dwelt, it is true, with great earnestness, upon his objections to the Bank, as at present modified, and especially to the pernicious influence of foreigners in holding stock in it; but they nevertheless contended that these objections would be cured if he was re-elected, and the Bank sustained. I appeal to the whole Senate, to my colleague, to the people of Kentucky, and especially to the citizens of the city of Louisville, for the correctness of this statement.

After all this, was it anticipated by the people of the United States that, in the re-election of the President, they were deciding against an institution of such vital importance? Could they have imagined that, after an express adjournment of the whole matter to a new Congress by the President himself, he would have prejudged the action of this new Congress, and pronounced that a question expressly by himself referred to its authority was previously settled by the people? He claimed no such result in his message, immediately after the re-election; although in it he denounced the Bank as an unsafe depository of the public money, and invited Congress to investigate its condition. The President, then, and the Secretary of the Treasury, are without all color of justification for their assertions that the question of bank or no bank was fully and fairly submitted to the people, and a decision pronounced against it by them.

Sir, I am surprised and alarmed at the new source of Executive power which is found in the result of a Presidential election. I had supposed that the constitution and the laws were the sole source of Executive authority; that the constitution could only be amended in the mode which it has itself prescribed; that the issue of a Presidential election was merely to place the Chief Magistrate in the post assigned to him; and that he had neither more nor less power, in consequence of the election, than the constitution defines and delegates. But it seems that if, prior to an election, certain opinions, no matter how ambiguously put forth by a candidate, are known to the people, these loose opinions, in virtue of the election, incorporate themselves with the constitution, and afterwards are to be regarded and expounded as parts of the instrument!

4 The public money ought not, the Secretary thinks, to remain in the Bank until the last moment of the existence of the charter. But that was not the question which he had to decide on the 26th September last. The real question then was, could he not wait sixty days for the meeting of Congress? There were many *last* moments, near two years and a half, between the 26th of September and the day of the expiration of the charter. But why not let the public money remain in the Bank until the last day of the charter? It is a part of the charter that it shall so remain; and Congress having so ordered it, the Secretary ought to have acquiesced in the will of Congress, unless the exigency had arisen on which alone it was supposed his power over the deposits would be exercised. The Secretary is greatly mistaken in believing that the Bank will be less secure in the last hours of its existence than previously. It will then be collecting its resources, with a view to the immediate payment of its notes, and the ultimate division among the stockholders of their capital; and at no period of its existence will it be so strong and able to pay all demands upon it. As to the depreciation in the value of its notes in the interior at that time, why, sir, is the Secretary possessed of the least knowledge of the course of the trade of the interior, and especially of the Western States? If he had any,

he could not have made such a suggestion. When the Bank itself is not drawing, its notes form the best medium of remittance from the interior to the Atlantic capitals. They are sought after by merchants and traders with avidity, are never below par, and, in the absence of bank drafts, may command a premium. This will continue to be the case as long as the charter endures, and especially during the last moments of its existence, when its ability will be unquestionable, Philadelphia being the place of the redemption; whilst the notes themselves will be receivable in all the large cities in payment of duties.

5. The Secretary asserts that "it is *well understood* that the superior credit heretofore enjoyed by the notes of the Bank of the United States was not founded on any particular confidence in its management or solidity. It was occasioned *altogether* by the agreement, on behalf of the public, in the act of incorporation, to receive them in all payments to the United States." I have rarely seen any State paper characterized by so little gravity, dignity, and circumspection as the report displays. The Secretary is perfectly reckless in his assertions of matters of fact, and culpably loose in his reasoning. Can he believe the assertion which he has made? Can he believe, for example, that, if the notes of the Bank of the Metropolis were made receivable in all payments to the Government, they would ever acquire, at home and abroad, the credit and confidence which are attached to those of the Bank of the United States? If he had stated that the faculty mentioned was one of the elements of the great credit of those notes, the statement would have been true; but who can agree with him that it is the *sole* cause? The credit of the Bank of the United States results from the large amount of its capital; from the great ability and integrity with which it has been administered; from the participation of the Government in its affairs; from its advantageous location; from its being the place of deposit of the public moneys, and its notes being receivable in all payments to the Government; and from its being emphatically *the Bank of the United States*. This latter circumstance arranges it with the Banks of England, France, Amsterdam, Genoa, &c.

6. The expansion and contraction of the accommodations of the Bank to its individual customers, are held up by the Secretary, in bold relief, as evidences of misconduct, which justified his withdrawal of the deposits. He represents the Bank as endeavoring to operate on the public, by alternate bribery and oppression, with the same object, in both cases, of influencing the election or the administration of the President. Why this perpetual reference of all the operations of the institution to the Executive? Why does the Executive think of nothing but itself? It is I! It is I! It is I, that is meant, appears to be the constant exclamation. Christianity and charity enjoin us never to ascribe a bad motive, if we can suppose a good one. The Bank is a moneyed corporation, whose profits result from its business. If that be extensive, it makes better; if limited, less profit. Its interest is to make the greatest amount of dividends

which it can safely; and all its actions may be more certainly ascribed to that than any other principle. The administration must have a poor opinion of the virtue and intelligence of the people of the United States, if it supposes that their judgments are to be warped, and their opinions controlled, by any scale of graduated bank accommodations. The Bank must have a still poorer conception of its duty to the stockholder, if it were to regulate its issues by the uncertain and speculative standard of political effect, rather than a positive arithmetical rule for the computation of interest.

As to the alleged extension of the business of the Bank, it has been again and again satisfactorily accounted for by the payment of the public debt, and the withdrawal from Europe of considerable sums, which threw into its vaults a large amount of funds, which, to be productive, must be employed; and as the commercial wants, proceeding from extraordinary activity of business, created great demands, about the same period, for bank accommodations, the institution naturally enlarged its transactions. It would have been treacherous to the best interests of its constituents if it had not done so. The recent contraction of its business is the result of an obvious cause. Notwithstanding the confidence in it, manifested by one of the last acts of the last House of Representatives, Congress had scarcely left the District before measures were put in operation to circumvent its authority. Denunciations and threats were put forth against it. Rumors, stamped with but too much authority, were circulated, of the intention of the Executive to disregard the admonition of the House of Representatives. An agent was sent out—and then such an agent—[Here Mr. CLAY was interrupted with bursts of applause from the galleries, which occasioned the interference of the Vice President]—to sound the local institutions as to the terms on which they would receive the deposits. Was the Bank, who could not be ignorant of all this, to sit carelessly by, without taking any precautionary measures? The prudent mariner, when he sees the coming storm, furls his sails, and prepares for all its rage. The Bank knew that the Executive was in open hostility to it, and that it had nothing to expect from its forbearance. It had numerous points to defend, the strength or weakness of all of which was well known from its weekly returns to the Secretary, and it could not possibly know at which the first mortal stroke would be aimed. If, on the 20th of September last, instead of the manifesto of the President against the Bank, he had officially announced that he did not mean to make war upon the Bank, and intended to allow the public deposits to remain until the pleasure of Congress was expressed, public confidence would have been assured and unshaken, the business of the country continued in quiet and prosperity, and the numerous bankruptcies in our commercial cities averted. The wisdom of human actions is better known in their results than at their inception. That of the Bank is manifest from all that has happened, and especially from its actual condition of perfect security.

7. The Secretary complains of misconduct of the Bank in dele-

gating to the Committee of Exchange the transaction of important business, and in that committee being appointed by the President, and not the Board, by which the Government directors have been excluded. The directors who compose the Board, meet only periodically. Deriving no compensation from their places, which the charter indeed prohibits them from receiving, it cannot be expected that they should be constantly in session. They must necessarily, therefore, devolve a great part of the business of the Bank, in its details, upon the officers and servants of the corporation. It is sufficient if the Board controls, governs, and directs the whole machine. The most important operation of a bank is that of paying out its cash, and that the cashier or teller, and not the Board, performs. As to Committees of Exchange, the Board not being always in session, it is evident that the convenience of the public requires that there should be some authority at the Bank daily, to pass daily upon bills, either in the sale or purchase, as the wants of the community require. Every bank, I believe, that does business to any extent, has a Committee of Exchange similar to that of the Bank of the United States. In regard to the mode of appointment by the president of the Board, it is in conformity with the invariable usage of the House of Representatives, with the practice of the Senate for several years, and, until altered at the commencement of this session, with the usage in a great variety, if not all, of the State Legislatures, and with that which prevails in our popular assemblies. The president, speaker, chairman, moderator, almost uniformly appoints committees. That none of the Government directors have been on the Committee of Exchange, has proceeded, it is to be presumed, from their not being entitled, from their skill and experience, and standing in society, to be put there. The Government directors stand upon the same equal footing with those appointed by the stockholders. When appointed, they are thrown into the mass, and must take their fair chances with their colleagues. If the President of the United States will nominate men of high character and credit, of known experience and knowledge in business, they will no doubt be placed in corresponding stations. If he appoints different men, he cannot expect it. Banks are exactly the places where currency and value are well understood and duly estimated. A piece of coin, having even the stamp of the Government, will not pass unless the metal is pure.

8. The French bill forms another topic of great complaint with the Secretary. The state of the case is, that the Government sold to the Bank a bill on that of France for \$900,000, which the Bank sold in London, whence it was sent by the purchaser to Paris to receive the amount. When the Bank purchased the bill, it paid the amount to the Government, or, which is the same thing, passed it to the credit of the Treasury, to be used on demand. The bill was protested in Paris, and the agents of the Bank, to avoid its being liable to damages, took up the bill on account of the Bank. The bill being thus dishonored, the Bank comes back on the drawer, and de-

mands the customary damages due, according to the course of all such transactions. The complaint of the Secretary is, that the Bank took up the bill to save its own credit, and that it did not do it on account of the Government; in other words, that the Bank did not advance at Paris \$900,000 to the Government, on account of a bill for which it had already paid every dollar at Philadelphia. Why, sir, has the Secretary read the charter? If he has, he must have known that the Bank could not have *advanced* the \$900,000 for the Government, at Paris, without subjecting itself to a penalty of three times the amount, (\$2,700,000.) The 13th section of the charter is express and positive: "That if the said corporation shall *advance* or lend any sum of money for *the use or on account* of the Government of the United States, to an amount exceeding \$500,000, all persons concerned in making such unlawful advance or loan, shall forfeit treble the amount, one-fifth to the informer," &c.

9. The last reason which I shall notice of the Secretary is, that this ambitious corporation aspires to possess political power. Those in the actual possession of power, especially when they have grossly abused it, are perpetually dreading its loss. The miser does not cling to his treasure with a more death-like grasp. Their suspicions are always active and on the alert. In every form they behold a rival, and every breeze comes charged with alarm and dread. A thousand spectres glide before their affrighted imaginations, and they see, in every attempt to enlighten those who have placed them in office, a sinister design to snatch from them their authority. On what other principles can we account for the extravagant charges brought forward by the Secretary against the Bank? More groundless and reckless assertions than those which he has allowed himself to embody in his report, never were presented to a deceived, insulted, and outraged people. Suffer me, sir, to groupe some of them. He asserts "that there is *sufficient evidence to prove* that the Bank has used its means to obtain political power;" that, in the Presidential election, "the Bank took an open and direct interest, demonstrating that it was using its money for the purpose of obtaining a hold upon the people of this country;" that it "entered the political arena;" that it circulated publications containing "attacks on the officers of Government;" that "it is now openly in the field as a political partisan;" that there are "*positive proofs*" of the efforts of the Bank to obtain power; and, finally, he concludes, as a demonstrated proposition, "Fourthly, that there is sufficient evidence to show that the Bank has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants."

After all this, who can doubt that this ambitious corporation is a candidate for the next Presidency? Or, if it can moderate its lofty pretensions, that it means at least to go for the office of Secretary of the Treasury, upon the next removal? But, sir, where are the proofs of these political designs? Can any thing be more reckless than these confident assertions of the Secretary? Let us have the

proofs. I call for the proofs. The Bank has been the constant object for years of vituperation and calumny. It has been assailed in every form of bitterness and malignity. Its operations have been misrepresented; its credit, and the public confidence in its integrity and solidity, attempted to be destroyed; and the character of its officers assailed. Under these circumstances, it has dared to defend itself. It has circulated public documents, speeches of members of Congress, reports made by chairmen of committees, friends of the administration, and other papers. And, as it was necessary to make the defence commensurate with the duration and the extensive theatre of the attack, it has been compelled to incur a heavy expense to save itself from threatened destruction. It has openly avowed, and yet avows, its right and purpose to defend itself. All this was known to the last Congress. Not a solitary material fact has been since disclosed. And when before, in a country where the press is free, was it deemed criminal for any body to defend itself? Who invested the Secretary of the Treasury with power to interpose himself between the people and light and intelligence? Who gave him the right to dictate what information shall be communicated to the people, and by whom? Whence does he derive his jurisdiction? Who made him censor of the public press? From what new sedition law does he deduce his authority? Is the superintendence of the American press a part of the financial duty of a Secretary of the Treasury? Why did he not lay the whole case before Congress, and invite their revival of the old sedition law? Why anticipate the arrival of their session? Why usurp the authority of the only department of the Government competent to apply a remedy, if there be any power to abridge the freedom of the press? If the Secretary wishes to purify the press, he has a most Herculean duty before him. And when he sallies out on his Quixotic expedition, he had better begin with the Augean stable, the press nearest to him, his organ, as most needing purification.

I have done with the Secretary's reasons. They have been weighed, and found wanting. There was not only no financial motive for his acting—the sole motive which he could officially entertain—but every financial consideration forbade him to act. I proceed now, in the third and last place, to examine the manner in which he has exercised his power over the deposites.

Third. The whole people of the United States derive an interest from the public deposites in the Bank of the United States, as a stockholder in that institution. The Bank is enabled, through its branches, to throw capital into those parts of the Union where it is most needed. Thus it distributes and equalizes the advantages accruing from the collection of a large public revenue, and the consequent public deposites. Thus it neutralizes the injustice which would otherwise flow from the people of the West and the interior, paying their full proportion of the public burdens, without deriving any corresponding benefit from the circulation and deposites of the public revenue. The use of the capital of the Bank has been

signally beneficial to the West. We there want capital, domestic, foreign—any capital that we can honestly get. We want it to stimulate enterprise, to give activity to business, and to develop the vast resources which the bounty of nature has concentrated in that region. But, by the Secretary's financial arrangements, the twenty-five or thirty millions of the public revenue collected from all the people of the United States, (including those of the West,) will be retained in a few Atlantic ports. Each port will engross the public moneys there collected; and, as that of New York collects about one-half of the public revenue, all the people of the United States will be laid under contribution, not for the sake of the people of the city of New York, but of two or three banks in that city, in which the people of the United States, collectively, have not a particle of interest; banks, the stock in which is, or may be, held by foreigners.

Three months have elapsed, and the Secretary has not yet found places of deposite for the public moneys, as substitutes for the Bank of the United States. He tells us, in his report of yesterday, that the Bank at Charleston, to which he applied to receive them, declined the custody, and that he has yet found no other bank willing to assume it. But he states that the public interest does not in consequence suffer. No! What is done with the public moneys constantly receiving in the important port of Charleston, the largest port (New Orleans excepted) from the Potomac to the Gulf of Mexico? What with the revenue bonds? It appears that he has not yet received the charters from all the banks selected as places of deposite. Can any thing be more improvident than that the Secretary should undertake to contract with banks, without knowing their power and capacity to contract by their charters? That he should venture to deposite the people's money in banks, without a full knowledge of every thing respecting their actual condition? But he has found some banks willing to receive the public deposites, and he has entered into contracts with them. And the very first step he has taken has been in direct violation of an express and positive statute of the United States. By the act of the 1st May, 1820, sixth section, it is enacted, "that no contract shall be hereafter made by "the Secretary of State, or of *the Treasury*, or of the Department "of War, or of the Navy, except under a law authorizing the same, "or under an appropriation adequate to its fulfilment; and excepting, "also, contracts for the subsistence and clothing of the army or "navy, and contracts by the Quartermaster's Department, which "may be made by the Secretaries of those departments." Now, sir, what law authorized these contracts with the local banks, made by the Secretary of *the Treasury*? The argument, if I understand the argument intended to be employed on the other side, is this: that, by the Bank charter, the Secretary is authorized to remove the public deposites, and that includes the power in question. But the act establishing the Treasury Department confides, expressly, the safe keeping of the public moneys of the United States to the Treasurer of the United States, and not to the Secretary; and the

Treasurer, not the Secretary, gives a bond for the fidelity with which he shall keep them. The moment, therefore, that they are withdrawn from the Bank of the United States, they are placed, by law, under the charge and responsibility of the Treasurer and his bond, and not of the Secretary, who has given no bond. But let us trace this argument a little further. The power to remove the deposits, says the Secretary, *from* a given place, implies the power to designate the place *to* which they shall be removed. And this *implied* power to designate the place *to* which they shall be removed, *implies* the power to the Secretary of the Treasury to contract with the new banks of deposite. And on this third link in the chain of implications a fourth is constructed, to dispense with the express duties of the Treasurer of the United States, defined in a positive statute; and *yet a fifth*, to repeal a positive statute of Congress, passed four years after the passage of the law containing the parent source of this most extraordinary chain of implications. The exceptions in the act of 1820 prove the inflexibility of the rule which it prescribes. Annual appropriations are made for the clothing and subsistence of the army and navy. These appropriations might have been supposed to contain a power to contract for those articles, notwithstanding the prohibitory clause in that act. But Congress thought otherwise, and therefore expressly provided for the exceptions. It must be admitted that our Clerk (as the late Governor Robinson, of Louisiana, one of the purest republicans I have ever known, used to call a Secretary of the Treasury) tramples with very little ceremony upon the duties of the Treasurer, and of the acts of the Congress of the United States, when they come in his way.

These contracts, therefore, between the Secretary of the Treasury and the local banks are mere nullities, and absolutely void, enforceable in no courts of justice whatever, for two causes. 1st. Because they are made in violation of the act of the 1st May, 1820; and, 2dly, because the Treasurer, and not the Secretary of the Treasury, alone had, if any federal officer possessed, the power to contract with the local banks. And here again we perceive the necessity there was for avoiding the precipitancy with which the Executive acted, and for waiting the meeting of Congress. Congress could have deliberately reviewed the previous legislation, decided upon the expediency of a transfer of the public deposits, and, if deemed proper, could have passed the new laws adapted to the new condition of the Treasury. It could have decided whether the local banks should pay any bonus, or pay any interest, or diffuse the public deposits throughout the United States, so as to secure among all their parts equality of benefits as well as of burdens, and provided for ample guaranties for the safety of the public moneys in their new depositories.

But let us now inquire whether the Secretary of the Treasury has exercised his usurped authority, in the formation of these contracts, with prudence and discretion. Having substituted himself to Con-

gress and to the Treasurer of the United States, he ought at least to show that, in the stipulations of the contracts themselves, he has guarded the public moneys, and provided for the public interest. I will examine the contract with the Girard bank of Philadelphia, which is presented as a specimen of the contracts with the Atlantic banks. The first stipulation limits the duty of the local bank to receive in deposite, on account of the United States, only the notes of banks convertible into coin "in its *immediate* vicinity," or which it is, "for the time being, in the habit of receiving." Under this stipulation, the Girard bank, for example, will not be bound to receive the notes of the Louisville bank, although that also be one of the deposite banks, nor the notes of any other bank, not in its immediate vicinity, even if it be a deposite bank. As to the provision that it will receive the notes of banks which, for the time being, it is in the habit of receiving, it is absurd to put such a stipulation in a contract, because, by the power retained to change the habit, for the time being, it is an absolute nullity. Now, sir, how does this contract compare with the charter and practice of the Bank of the United States? That bank receives every where, and credits the Government with the notes, whether issued by the branches or the principal bank. The amount of all these notes is every where available to the Government. But the Government may be overflowing in distant bank notes when they are not wanted, and a bankrupt at the places of great expenditure, under this singular arrangement.

With respect to the transfer of moneys from place to place, the local bank requires in this contract that it shall not take place but upon *reasonable* notice. And what reasonable notice is, has been left totally undefined, and of course open to future contest. When hereafter a transfer is ordered, and the bank is unable to make it, there is nothing to do but to allege the unreasonableness of the notice. The local bank agrees to render to the Government all the services now performed by the Bank of the United States, subject, however, to the restriction that they are required "in the vicinity" of the local bank. But the Bank of the United States is under no such restrictions; its services are co-extensive with the United States and their territories.

The local banks agree to submit their books and accounts to the Secretary of the Treasury, or to any agent to be appointed by him, but to be paid by the local banks *pro rata*, as far as such examination is *admissible without a violation of their respective charters*; and how far that may be, the Secretary cannot tell, because he has not yet seen all the charters. He is, however, to appoint the agents of examination, and to fix the salaries which the local banks are to pay. And where does the Secretary find the power to create offices and fix their salaries, without the authority of Congress?

But the most improvident, unprecedented, and extraordinary provision in the contract is that which relates to the security. When, and not until, the deposites in the local bank shall exceed one-half

of the capital stock actually paid in, collateral security, satisfactory to the Secretary of the Treasury, is to be given for the safety of the deposites. Why, sir, a freshman, a schoolboy, would not have thus dealt with his father's or guardian's money. Instead of the security *preceding*, it is to *follow* the deposit of the people's money! That is, the local bank gets an amount of their money, equal to one-half of its capital, and then it condescends to give security! Does not the Secretary know that, when he goes for the security, the money may be gone, and that he may be entirely unable to get the one or the other? We have a law, if I mistake not, which forbids the advance of any public money, even to a disbursing agent of the Government, without previous security. Yet, in violation of the spirit of that law, or, at least, of all common sense and common prudence, the Secretary disperses upwards of twenty-five millions of public revenue among a countless number of unknown banks, and stipulates that, when the amount of the deposit exceeds one-half of their respective capitals, security is to be given!

The best stipulation in the whole contract is the last, which reserves to the Secretary of the Treasury the power of discharging these local banks from the service of the United States whenever he pleases; and the sooner he exercises it, and restores the public deposites to the place of acknowledged safety, from which they have been rashly taken, the better for all parties concerned.

Let us look into the condition of one of these local banks, the nearest to us, and that with respect to which we have the best information. The banks of this District (and among them that of the Metropolis) are required to make annual reports of their condition on the first day of January. The latest official return from the Metropolis bank is of the first of January, 1832. Why it did not make one on the first of last January, along with the other banks, I know not. In point of fact, I am informed, it made none. Here is its account of January, 1832, and I think you will agree that it is a Flemish one. On the debit side stand, capital paid in, five hundred thousand dollars; notes in circulation, 62,855 dollars; due to banks, \$20,911 10; individuals on deposit, \$74,977 42; dividend and expenses, \$17,591 77; and surplus, \$8,131 02; making an aggregate of \$684,496 31. On the credit side there are, bills and notes discounted, and stock [What sort?] bearing interest, \$626,011 90; real estate, \$18,404 86; notes of other banks on hand, and checks on ditto, \$23,213 80; specie—now, Mr. President, how much do you imagine? Recollect that this is the bank selected at the seat of Government, where there is necessarily concentrated a vast amount of public money, employed in the expenditure of Government at this place. Recollect that, by another Executive edict, all public officers, charged with the disbursement of the public money here, are required to make their deposites with this Metropolis bank; and how much specie do you suppose it had at the date of its last official return? \$10,974 76. Due from other banks \$5,890 99; making in the aggregate, on the credit side, \$684,496 31. Upon looking into

the items, and casting them up, you will find that this Metropolis bank, on the first day of January, 1832, was liable to an immediate call for \$176,335 29, and that the amount which it had on hand ready to meet that call was \$40,079 55. And *this* is one of the banks selected at the seat of the General Government for the deposit of the public moneys of the United States. A bank, with a capital of thirty-five millions of dollars, and upwards of ten millions of specie on hand, has been put aside, and a bank, with a capital of half a million, and a little more than ten thousand dollars in specie on hand, has been substituted in its place! How that half million has been raised; whether, in part, or in the whole, by the neutralizing operation of giving stock notes in exchange for certificates of stock, does not appear.

The design of the whole scheme of this Treasury arrangement seems to have been to have united, in one common league, a number of local banks, dispersed throughout the Union, and subject to one central will, with a right of scrutiny instituted by the agents of that will. It is a bad imitation of the New York project of a safety fund. This confederation of banks will probably be combined in sympathy as well as interest, and will be always ready to fly to the succor of the source of their nourishment. As to their supplying a common currency in place of that of the Bank of the United States, the plan is totally destitute of the essential requisite. They are not required to credit each other's paper, unless it be issued in the "*immediate vicinity*."

We have seen what *is* in this contract. Now let us see what is *not* there. It contains no stipulation for the preservation of the public morals; none for the freedom of elections; none for the purity of the press. All these great interests, after all that has been said against the Bank of the United States, are left to shift and take care of themselves as they can. We have already seen the president of a bank in a neighboring city rushing impetuously to the defence of the Secretary of the Treasury against an editorial article in a newspaper, although "the venom of the shaft was not quite equal to the vigor of the bow." Was he rebuked by the Secretary of the Treasury? Was the bank *discharged* from the public service? Or, are morals, the press, and elections, in no danger of contamination, when a host of banks become literary champions on the side of power and the officers of Government? Is the patriotism of the Secretary only alarmed when the infallibility of high authority is questioned? Will the States silently acquiesce, and see the federal authority insinuating itself into banks of their creation, and subject to their exclusive control?

We have, Mr. President, a most wonderful financier at the head of our Treasury Department. He sits quietly by in the cabinet, and witnesses the contest between his colleague and the President. Sees the conflict in the mind of that colleague between his personal attachment to the President, on the one hand, and his solemn duty to the public, on the other. Beholds the triumph of conscientious ob-

ligation. Contemplates the noble spectacle of an honest man, preferring to surrender an exalted office, with all its honors and emoluments, rather than betray the interests of the people. Witnesses the insulting and contemptuous expulsion of that colleague from office; and then coolly enters the vacated place, without the slightest sympathy or the smallest emotion. He was installed on the 23d of September, and by the 26th, the brief period of three days, he discovers that the Government of the United States had been wrong from its origin; that every one of his predecessors from Hamilton down, including Gallatin, (who, whatever I said of him on a former occasion, and that I do not mean to retract, possessed more practical knowledge of currency, banks, and finance, than any man I have ever met in the public councils,) Dallas, and Crawford, had been mistaken about both the expediency and constitutionality of the Bank; that every Chief Magistrate, prior to him whose patronage he enjoyed, had been wrong; that Congress, the Supreme Court of the United States, and the people of the United States, during the thirty-seven years that they had acquiesced in or recognised the utility of a Bank, were all wrong. And, opposing his single opinion to their united judgments, he dismisses the Bank, scatters the public money, and undertakes to regulate and purify the public morals, the public press, and popular elections!

If we examine the operations of this modern Turgot in their financial bearing merely, we shall find still less for approbation.

1. He withdraws the public moneys, where, by his own deliberate admission, they were perfectly safe, with a bank of thirty-five millions of capital, and ten millions of specie, and he places them, at great hazard, with banks of comparatively small capital and but little specie, of which the Metropolis bank is an example.

2. He withdraws them from a bank created by, and over which the Federal Government had ample control, and puts them in other banks, created by different Governments, and over which it has no control.

3. He withdraws them from a bank in which the American people, as a stockholder, were drawing their fair proportion of interest accruing on loans, of which those deposits formed the basis, and puts them where the people of the United States draw no interest.

4. From a bank which has paid a bonus of a million and a half, which the people of the United States may be now liable to refund, and puts them in banks which have paid to the American people no bonus.

5. Depreciates the value of the stock in a bank where the General Government holds seven millions, and advances that of banks in whose stock it does not hold a dollar, and whose aggregate capital does not probably much exceed that very seven millions. And, finally,

6. He dismisses a bank whose paper circulates, in the greatest credit, throughout the Union and in foreign countries, and engages in the public service banks whose paper has but a limited and local circulation in their "immediate vicinities."

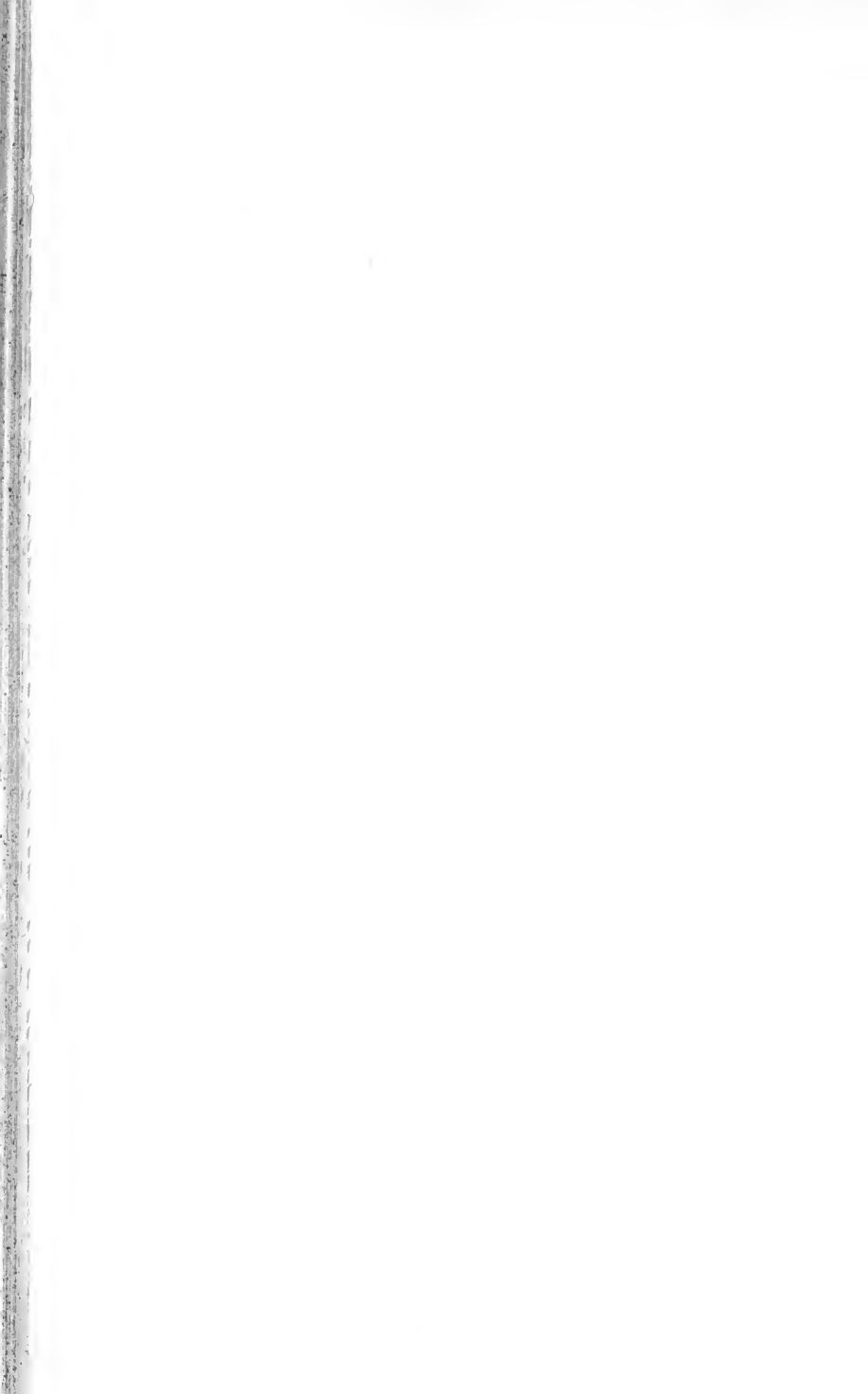
These are immediate and inevitable results. How much that large and long standing item of unavailable funds, annually reported to Congress, will be swelled and extended, remains to be developed by time.

And now, Mr. President, what, under all these circumstances, is it our duty to do? Is there a Senator who can hesitate to affirm, in the language of the resolutions, that the President has assumed a dangerous power over the Treasury of the United States, not granted to him by the constitution and the laws; and that the reasons assigned for the act by the Secretary of the Treasury are insufficient and unsatisfactory?

The eyes and the hopes of the American people are anxiously turned to Congress. They feel that they have been deceived and insulted; their confidence abused; their interests betrayed; and their liberties in danger. They see a rapid and alarming concentration of all power in one man's hands. They see that, by the exercise of the positive authority of the Executive, and his negative power exerted over Congress, the will of one man alone prevails, and governs the Republic. The question is no longer what laws will Congress pass, but what will the Executive not veto? The President, and not Congress, is addressed for legislative action. We have seen a corporation, charged with the execution of a great national work, dismiss an experienced, faithful, and zealous president, afterwards testify to his ability by a voluntary resolution, and reward his extraordinary services by a large gratuity, and appoint in his place an Executive favorite, totally inexperienced and incompetent, to propitiate the President. We behold the usual incidents of approaching tyranny. The land is filled with spies and informers; and detraction and denunciation are the orders of the day. People, especially official incumbents in this place, no longer dare speak in the fearless tones of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die! base, mean, and abject slaves—the scorn and contempt of mankind—unpitied, unwept, unmourned!

[The conclusion of the speech was followed by repeated and loud applause in the galleries, as it had been often interrupted before.]







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